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**WHO:** The Office of the Federal Register.

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2. The relationship between the Federal Register and Code of Federal Regulations.
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**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** April 20 at 9:00 am

**WHERE:** Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

**RESERVATIONS:** 202–523–4538

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 110

[SD–94–004]

### Agency Reorganization of Analytical Testing Services; Correction

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Technical amendment; final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is removing regulations pertaining to recordkeeping requirements for certified applicators of federally restricted use pesticides. These provisions were inadvertently included in a final rule on AMS reorganization of analytical testing services published August 9, 1993 (58 FR 42408). This rule confirms that the regulations regarding pesticide requirements for certified applicators of federally restricted use pesticides published April 9, 1993 (58 FR 19022) remain in effect.

**EFFECTIVE DATE:** August 9, 1993.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Poli, Chief, Pesticide Records Branch, Agricultural Marketing Service, U. S. Department of Agriculture, 8700 Centreville Road, Suite 200, Manassas, VA 22110, Telephone (703) 330–7826.

**SUPPLEMENTARY INFORMATION:** As published on August 9, 1993, the final regulations incorrectly included provisions regarding part 110. These provisions must therefore be deleted. The regulations regarding Pesticide Requirements for Certified Applicators of Federally Restricted Use Pesticides published April 9, 1993, (58 FR 19022) remain in effect.

**List of Subjects in 7 CFR Part 110**

Pesticide and pests, Reporting and recordkeeping requirements.

**PART 110—[CORRECTED]**

Accordingly, 7 CFR Chapter I is corrected by making the following amendments:

Part 110 published at 58 FR 42408, August 9, 1993 is removed.

Part 110 published in subchapter E at 58 FR 19022, April 9, 1993, remains in effect.

Dated: March 28, 1994

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 94–7842 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

### 7 CFR Part 915

[Docket No. FV94–915–1–IFR]

### Avocados Grown in South Florida; Suspension of Grade Requirements for Certain Florida Avocados

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule extends a suspension of grade requirements for fresh Florida avocados shipped in certain containers to destinations within the production area in Florida for the 1994–95 season. This rule will enable Florida growers and handlers to market a larger percentage of their crops in the production area, and it is necessary in response to quality problems associated with the after effects of Hurricane Andrew.

**DATES:** Effective April 1, 1994. Comments which are received by May 2, 1994 will be considered prior to issuance of any final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; FAX: 202–720–5698. Comments should reference this docket number, and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Aleck Jonas, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 813–299–4770, or FAX: 813–299–5169; or Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: 202–720–5331, or FAX: 202–720–5698.

**SUPPLEMENTARY INFORMATION:** This interim final rule is issued under Marketing Agreement and Order No. 915 (7 CFR part 915) regulating the handling of avocados grown in South Florida, hereinafter referred to as the order. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA),

the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 65 avocado handlers subject to regulation under the order covering avocados grown in South Florida, and about 95 avocado producers in South Florida. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of these handlers and producers may be classified as small entities.

The Avocado Administrative Committee (committee) met February 16, 1994, and recommended that the suspension of grade requirements be extended. The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for avocados regulated under the order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Section 915.306 (7 CFR 915.306) of the order specifies grade, pack, and container marking regulations for fresh shipments of avocados grown in Florida. This section was amended by an interim final rule published at 58 FR 7972 on February 11, 1993, and finalized at 58 FR 34683 on June 29, 1993. The final rule suspended grade requirements for avocados shipped to destinations within the production area in Florida in containers other than those authorized under § 915.305, during the period February 11, 1993, through March 31, 1994.

This rule amends § 915.306 by adding a new paragraph (a)(7) to extend the suspension of grade requirements for avocados shipped to destinations within the production area in Florida in containers other than those authorized under § 915.305, during the period April 1, 1994, through March 31, 1995.

The committee recommended that the suspension be extended for 1994–95 season shipments, because more than normal amounts of scarring and Cercospora spots due to wind damage and the loss of tree canopy are expected to damage the skin of the fruit for several avocado varieties next season. These skin blemishes affect the appearance of the avocados, and as a result some of the fruit will not meet the minimum grade requirement of U.S. No. 2 specified in paragraph (a)(1) of § 915.306. However, such fruit is a wholesome product marketable within the production area.

This rule will enable Florida avocado producers and handlers to continue selling fresh avocados in the production area, which would otherwise be culled out during the packing process, making additional fruit available to consumers. This rule is expected to result in relatively small quantities of lower quality avocados being sold fresh within the production area during the 1994–95 season.

The committee recommended that this suspension be made effective for only the 1994–95 season, because it expects that more abundant supplies of fresh Florida avocados with fewer skin blemishes will be available for the fresh market by the start of the 1995–96 season. Florida avocado production continues to recover from the devastation caused by Hurricane Andrew in August 1992, but production expected for the 1994–95 season is still well below the levels reached prior to the hurricane.

This rule does not apply to fresh Florida avocados shipped to destinations outside the production area and to avocados shipped to any destination in those containers specified in § 915.305. A minimum grade requirement of U.S. No. 2 continues to apply to such shipments. Also, this rule does not change any current maturity, container, pack, and inspection requirements effective under the order for fresh Florida avocado shipments.

Avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since this rule does not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 for avocados handled to points outside the production area, there is no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

This rule reflects the committee's and the Department's appraisal of the need to extend the suspension of grade requirements for certain Florida avocados shipped during the 1994–95 season. The Department's view is that this rule will have a beneficial impact on producers and handlers since it will permit avocado handlers to make additional supplies of fruit available to meet consumer needs consistent with expected crop and market conditions.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the extension of the suspension set forth below will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule suspends grade requirements for certain avocados grown in Florida; (2) Florida avocado handlers are aware of this suspension which was recommended by the committee at a public meeting, and they will need no additional time to comply with this suspension; (3) this rule needs to be made effective by April 1, 1994, to be of maximum benefit to the Florida avocado industry; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

**List of Subjects in 7 CFR Part 915**

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

## PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 915.306 is amended by revising paragraph (a)(7) to read as follows:

**Note:** This section will appear in the annual Code of Federal Regulations.

**§ 915.306 Florida avocado grade, pack, and container marking regulation.**

(a) * * *

(7) Notwithstanding the provisions in this section, such avocados may be handled during the period April 1, 1994, through March 31, 1995, not subject to the grade requirements specified in paragraph (a)(1) of this section when they are shipped in containers other than those authorized under § 915.305 to destinations within the production area.

* * * *

Dated: March 25, 1994.

**Robert C. Keeney,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 94–7693 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

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## 7 CFR Parts 1005, 1007, 1011, and 1046

**[DA–93–29]**

## Milk in the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville Marketing Areas; Suspension of Certain Provisions of the Orders

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rules.

**SUMMARY:** This document suspends for 12 months certain provisions of the Carolina, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk orders. The suspension will regulate a plant at Kingsport, Tennessee, under the Tennessee Valley order, instead of the Carolina order, and it will keep regulated under the Tennessee Valley order a plant at Somerset, Kentucky, that otherwise could have become regulated under the Louisville-Lexington-Evansville order. The action is being taken to remove and prevent pricing disparities that could jeopardize the business of these handlers, pending an amendatory proceeding on these matters.

**EFFECTIVE DATE:** March 1, 1994, through February 28, 1995.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding:

Notice of Proposed Suspension (DA–93–29): Issued October 22, 1993; published October 28, 1993 (58 FR 57970).

Revised Proposed Suspension (DA–93–29): Issued January 3, 1994; published January 10, 1994 (59 FR 1305).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action will lessen the regulatory burden on small entities by removing pricing disparities that are causing or could cause financial hardship for certain distributing plants.

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the orders regulating the handling of milk in each of the aforesaid marketing areas.

Notice of proposed rulemaking was published in the **Federal Register** (58 FR 57970) on October 28, 1993, concerning the proposed suspension of certain provisions of the Georgia, Carolina, Tennessee Valley Federal milk orders (DA–93–29). The public was afforded the opportunity to comment on the notice by submitting written data, views, and arguments by November 4, 1993. Six comment letters were received concerning the three-market proposed suspension.

Subsequent to the issuance of the above proposed suspension, a suspension request was received from a handler regulated under the Tennessee Valley order that expanded the initial suspension issue to the Louisville-Lexington-Evansville order. Thereafter, a revised notice of proposed rulemaking was published in the **Federal Register** (59 FR 1305) on January 10, 1994, concerning the proposed suspension of certain provisions of the Georgia, Carolina, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk orders. The public was afforded the opportunity to comment on the notice by submitting written data, views, and arguments by January 20, 1994. Ten comment letters were received concerning the expanded four-market proposed suspension.

After consideration of all relevant material, including the proposal in the notices and other available information, it is hereby found and determined that the following provisions of the orders regulating the handling of milk in the Georgia, Carolina, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk marketing areas will not tend to effectuate the declared policy of the Act during the months of March 1994 through February 1995:

1. In § 1005.7(d)(3) of the Carolina order, the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area";

2. In § 1007.7(e)(3) of the Georgia order, the words ", except as provided in paragraph (e)(4) of this section,";

3. In § 1007.7 of the Georgia order, paragraph (e)(4);

4. In § 1011.7(d)(3) of the Tennessee Valley order, the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area"; and

5. In § 1046.2 of the Louisville-Lexington-Evansville order, the word "Pulaski".

### Statement of Consideration

This action will allow a distributing plant at Kingsport, Tennessee, that is located within the Tennessee Valley marketing area and that meets all of the pooling standards of the Tennessee Valley order to be regulated under that order rather than the Carolina order, as

now, despite the plant having greater sales in the Carolina marketing area. It will allow a distributing plant located at Somerset, Kentucky, that has been regulated under the Tennessee Valley order to remain regulated under that order even if it should develop greater sales in the Louisville-Lexington-Evansville (Order 46) marketing area. In addition, this action will allow a supply plant at Springfield, Kentucky, that has been supplying the Somerset plant to remain pooled under the Tennessee Valley order without having to make uneconomic shipments of milk that it contends would have been necessary if the Southern Belle plant shifted to Order 46.

*1. The Problem of Land-O-Sun Dairies, Inc.*

In recent months, the blend price to producers at Kingsport, Tennessee, under the Tennessee Valley order has been significantly higher than the blend price at that location under the Carolina order. For example, during the months of July through October 1993, the Tennessee Valley blend price at Kingsport was 32 cents, 29 cents, 20 cents, and 20 cents, respectively, higher than the Carolina blend price at Kingsport. Although the Class I price at Kingsport is identical under both of these orders, the Tennessee Valley order's higher Class I utilization has resulted in a higher blend price at Kingsport during nearly every month for the past two years.

The difference in blend prices at Kingsport requires Land-O-Sun Dairies, as a Carolina order handler, to pay significant over-order prices to retain its milk supply in competition with nearby handlers regulated under the Tennessee Valley order. Land-O-Sun indicated that it could not continue to pay these over-order prices without jeopardizing the existence of its business. It therefore proposed a suspension of certain provisions of Orders 5 and 11 that would allow it to become regulated under Order 11.

It should be noted that the paragraph that is being suspended from the Georgia order is merely a conforming change to preserve the status quo between the Carolina and Georgia orders. This change is necessary to continue the regulation of a Greenville, South Carolina, plant under the Georgia order. Without the suspension, the plant would become regulated under the Carolina order.

*2. The Problem of Southern Belle Dairy Company*

Southern Belle Dairy at Somerset, Kentucky, has been regulated under Order 11 since 1989. However, recently it has acquired accounts that could cause it to shift to Order 46.

In recent months, the blend price at Somerset under Order 11 has been significantly higher than the blend price at that location under Order 46. For example, during the months of July through October 1993, the blend price under Order 11 at Somerset was 67 cents, 62 cents, 49 cents, and 25 cents, respectively, higher than the Order 46 blend price at that location. Of these amounts, 19 cents is attributable to a 19-cent higher Class I price at that location under Order 11. Southern Belle contended that if it should shift to Order 46 it would have to pay substantial over-order prices to its producers to retain its milk supply. Moreover, slight changes in sales could cause it to shift back and forth between the two orders, causing market instability and uncertainty under the base-excess programs applicable to both orders.

*3. The Problem of Armour Food Ingredients Company*

Armour operates a supply plant and a nonpool manufacturing plant at Springfield, Kentucky. The supply plant has been regulated under Order 11 since August 1992. If the Southern Belle plant had shifted to Order 46, Armour's supply plant would also have become subject to the regulations of Order 46 because the plant is supplying milk to the Southern Belle plant. Armour argued that the plant would not qualify as a pool plant based on its present milk handling practices because, under the net shipment provision of Order 46, all of the shipments sent to its manufacturing facility from pool distributing plants for surplus disposal would be subtracted from its shipments to pool distributing plants. Armour stated that to keep the milk of its producers pooled under Order 46 it would have to incur substantial increases in transportation and assembly costs. To avoid these costs, Armour proposed suspending language in the net shipment provision of Order 46, notice of which was provided in the **Federal Register** on September 28, 1993 (DA–93–26). Two comment letters were received opposing that request.

*4. Industry Responses to the Revised Proposed Suspension*

In response to the notice of proposed suspension and the revised proposed suspension, a total of 18 comments were received from 12 different parties.

Milkco, Inc., a handler regulated under the Carolina order with a plant in Asheville, North Carolina, stated that it supported the proposed suspension. Southern Belle Dairy, Armour and Land-O-Sun also submitted letters in support of the suspension.

A letter supporting the proposed suspension affecting Orders 5, 7, and 11 also was received from Mid-America Dairymen, Inc., on behalf of Southern Milk Sales, Inc., a dairy cooperative with producer milk pooled on the Tennessee Valley, Georgia, and Carolina orders. The cooperative noted in its letter that "paying higher over-order values to maintain its supply of milk would jeopardize the existence of the affected distributing plant." Mid-America did not file a comment in response to the revised proposed suspension.

An individual dairy farmer who supplies producer milk to Land-O-Sun also filed a comment in support of the suspension, stating that if Land-O-Sun paid him a lesser price for his milk he would have to sell to another handler. A dairy farmer that formerly supplied Land-O-Sun stated that he opposed the action.

Coburg Dairy, a Carolina order handler located in Charleston, South Carolina, and Peeler Jersey Farms, Inc., which operates a distributing plant in Gaffney, South Carolina, filed comments opposing the suspension. Both handlers compete with the Kingsport plant for Class I sales in the Carolina market. Coburg argued that the regulation of the Kingsport plant under the Tennessee Valley order would give the plant a competitive advantage in the Carolina market since it has a lower Class I price and because it presumably would not have to pay over-order prices to its producers. Peeler stated that Land-O-Sun was engaging in "low ball" pricing and that no action should be taken that will have a significant economic impact on small entities.

Edisto Milk Producers Cooperative, which supplies Coburg Dairy and another Order 5 handler, opposed the suspension because it would allow the Kingsport plant to switch to Order 11 at the expense of the Order 5 pool.

The North Carolina Farm Bureau Federation, a general farm organization, objected to the proposed suspension on the grounds that regulation of the Kingsport plant under Order 11 would jeopardize the over-order prices in the Carolina market. The Federation indicated that eroding Class I premiums and lower Class I utilization were threatening the health of the dairy industry in North Carolina.

Milk Marketing, Inc., a cooperative association with 688 dairy farmers under Order 46, stated that it had supported lock-in provisions in the past but that it was opposing the suspension

that would keep Southern Belle regulated under Order 11 because its procurement area and sales area were the same.

Finally, a comment opposing the suspension was submitted by Central Milk Producers Cooperative on behalf of all of its constituent cooperative members, with the exception of Mid-America Dairymen, Inc, the only CMPC member with dairy farmer members in the affected area. CMPC stated that it opposed the suspension because it "circumvents the amendment process." It argued that the problems described above should have been handled through a formal rulemaking process.

*5. The Need To Adopt This Suspension Pending an Amendatory Proceeding To Resolve These Issues in a More Permanent Manner*

After carefully evaluating the comments that were submitted, it must be concluded, on balance, that orderly marketing will be best preserved by adopting the proposed suspension, for a 12-month period only, to allow the industry time to develop proposals for a hearing to be held before the suspension period expires.

There was only limited opposition to that portion of the suspension request that would permit the Southern Belle plant at Somerset, Kentucky, and the Armour Food Ingredients Company plant at Springfield, Kentucky, to remain pooled under the Tennessee Valley order, where they have been regulated since 1989 and 1992, respectively. The present suspension will remove a potential problem for both plants and will eliminate the need to move forward with an alternative suspension action (DA–93–26) that would have removed the net shipment provision of Order 46, an action opposed by both Milk Marketing, Inc., and The Kroger Company. (Commensurate with the issuance of this suspension order, the proceeding involving DA–93–26 is being terminated.)

The primary objections to the suspension action centered on the situation faced by Land-O-Sun Dairy at Kingsport, Tennessee. Coburg Dairy and Edisto Milk Producers stated that "the Kingsport plant has a lower Class I price than plants located in the Carolina marketing area * * * but the blend price at Kingsport under the Tennessee Valley marketing order is significantly greater than the blend price paid to Coburg's producers" and that "handlers with a lower federal order cost of milk procurement, but whose producers receive more by way of the blend price, should not be permitted to compete against a handler with higher milk procurement costs, but whose producers receive less by way of the blend price."

The Class I price at Kingsport, Tennessee, is identical under Orders 5 and 11. Under Order 5, the price increases to the east and southeast of Kingsport reflecting the higher value of milk that is consistent with a national pattern of higher milk prices as distance increases from the surplus producing areas of Minnesota and Wisconsin. Consequently, the Order 5 Class I price applicable to Coburg Dairy at Charleston, South Carolina, is 46 cents higher than the Order 5 Class I price at Kingsport, Tennessee. This difference in Class I price would apply regardless of whether Land-O-Sun was regulated under Order 5 or Order 11.

In December 1993, the Order 5 Class I price was $15.23 at Kingsport and $15.69 at Charleston. The Order 5 blend price that producers would have received, if the order did not have a base-excess plan, reflected this same location difference: $14.65 at Kingsport and $15.11 at Charleston.

The blend price under Order 11 in December 1993 was $14.76, eleven cents higher than the Order 5 price at Kingsport that month, but 35 cents below the blend price at Coburg Dairy in Charleston. Consequently, it is simply not correct that Coburg pays a higher Class I price but that its producers receive a lower blend price. On the contrary, Coburg's producers would receive a higher blend price than Land-O-Sun's producers whether Land-O-Sun was regulated under Order 5 or Order 11. The difference would be less if Land-O-Sun were regulated under Order 11.

The comments of Peeler Jersey Farms, Inc., of Gaffney, South Carolina, suggest that shifting the Land-O-Sun plant from Order 5 to Order 11 would unfairly impact them economically. Peeler also questioned the finding that the suspension would not have a significant impact on a substantial number of small entities.

Like Coburg Dairy, Peeler Jersey Farms has a higher Class I price applicable at its location than is applicable at Kingsport. This difference of 31 cents in the Class I price would apply whether the Kingsport plant was regulated under Order 5 or Order 11. Under Order 5, this 31-cent location adjustment is also reflected in the blend price at Gaffney as compared to Kingsport.

Regulation of the Land-O-Sun plant under Order 11 will not have a significant economic impact on either Coburg Dairy, Edisto Milk Producers, or Peeler Jersey Farms. However, keeping the Land-O-Sun plant regulated under Order 5 will have a serious impact on its ability to maintain a milk supply in competition with nearby Order 11 handlers.

A review of the almost 60-year history of the Federal order program clearly highlights the continuously evolving nature of the dairy industry and the necessity of the market order program to keep up with changes in the industry. The price discrepancies leading to this suspension request suggest that the regulatory framework in this area has not kept pace with the realities of the marketplace.

In administering the Federal milk order program, the Department cannot be insensitive to those who would be unfairly impacted by its regulation. The price that is established for a handler may dictate whether the handler can maintain a viable business operation.

In response to those who argue that the Department is engaging in rulemaking with this action, we would emphasize that this is a temporary measure taken to give the industry time to submit proposals for a more permanent solution to these problems. We agree with those who stated that the best way to keep current with changes in the marketplace is through a hearing process where all parties have an opportunity to build a comprehensive record on the matters. However, knowing that situations can change quickly or temporarily, Congress gave the Secretary the authority to suspend order provisions for temporary periods to handle situations in which the order is no longer effectuating the declared objectives of the Act.

We now find ourselves in such a situation. The regulatory program may have fallen behind the realities of the marketplace, and time is needed to explore possible approaches to deal with these concerns. For this reason, we are limiting this suspension to 12 months only. This should provide the industry with time to develop and submit proposals for a hearing on the appropriate regulatory structure in the marketing areas covered by Orders 5, 11, and 46. In the meantime, we believe that this suspension will remove the immediate potential of disorderly marketing conditions while an amendatory proceeding moves forward.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that: (a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties, and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective March 1, 1994.

**List of Subjects in 7 CFR Parts 1005, 1007, 1011, and 1046**

Milk marketing orders.

For reasons set forth in the preamble, Title 7, parts 1005, 1007, 1011, and 1046, are amended as follows:

1. The authority citation for 7 CFR parts 1005, 1007, 1011, and 1046 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

## PART 1005—MILK IN THE CAROLINA MARKETING AREA

**§ 1005.7 [Temporarily suspended in part]**

2. In § 1005.7(d)(3), the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area" are suspended from March 1, 1994, through February 28, 1995;

## PART 1007—MILK IN THE GEORGIA MARKETING AREA

**§ 1007.7 [Temporarily suspended in part]**

3. In § 1007.7(e)(3), the words ", except as provided in paragraph (e)(4) of this section," are suspended from March 1, 1994, through February 28, 1995;

4. In § 1007.7, paragraph (e)(4) is suspended from March 1, 1994, through February 28, 1995;

## PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

**§ 1011.7 [Temporarily suspended in part]**

5. In § 1011.7(d)(3), the words "from", "there", "a greater quantity of route disposition, except filled milk, during the month", and "than in this marketing area" are suspended from March 1, 1994, through February 28, 1995; and

## PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

**§ 1046.2 [Temporarily suspended in part]**

6. In § 1046.2 of the Louisville-Lexington-Evansville order, the word "Pulaski" is suspended from March 1, 1994, through February 28, 1995.

Dated: March 28, 1994

**Patricia Jensen,**

*Acting Assistant Secretary Marketing and Inspection Services.*

[FR Doc. 94–7840 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

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## 7 CFR Parts 1124 and 1135

**[Docket Nos. AO–368–A21, AO–380–A11; DA–92–07]**

## Milk in the Pacific Northwest and Southwestern Idaho-Eastern Oregon Marketing Areas; Order Amending Orders

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule provides for pricing milk on the basis of nonfat solids and protein, in addition to butterfat, for the Pacific Northwest and Southwestern Idaho-Eastern Oregon marketing orders, respectively. In addition, it reduces the supply plant shipping percentage for the Pacific Northwest order and modifies the producer-handler regulation to permit a State institution with outside distribution to purchase an average of 1,000 pounds of milk per day from pool plants.

**EFFECTIVE DATE:** May 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

**SUPPLEMENTARY INFORMATION:** This administrative action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

These proposed amendments have been reviewed under Executive Order 12278, Civil Justice Reform. This action is not intended to have retroactive effect, nor will it preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the entry of the ruling.

**Prior Documents in This Proceeding**

*Notice of Hearing:* Issued July 31, 1992; published August 6, 1992 (57 FR 34694).

*Recommended Decision:* Issued October 7, 1993; published October 15, 1993 (58 FR 53439).

*Final Decision:* Issued February 9, 1994; published February 23, 1994 (59 FR 8546).

**Findings and Determinations**

The following findings and determinations supplement those that were made when the Pacific Northwest and Southwestern Idaho-Eastern Oregon orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Act, and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Pacific Northwest and Southwestern Idaho-Eastern Oregon marketing areas.

Based on the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas, and the minimum prices specified in the orders, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders, as hereby amended, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk marketed within each of the aforesaid marketing areas to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the orders; and

(3) The issuance of the order amending the orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in each of the respective marketing areas.

**List of Subjects in 7 CFR Parts 1124 and 1135**

Milk marketing orders.

**Order Relative To Handling**

On and after the effective date hereof, the handling of milk in the Pacific Northwest and Southwestern Idaho-Eastern Oregon marketing areas shall be in conformity to, and in compliance with, the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

## PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

1. The authority citation for part 1124 is revised to read as follows:

**Authority:** 7 U.S.C. 601–674.

**§ 1124.7 [Amended]**

2. In the introductory text of § 1124.7(b), the number "30" is changed to "20".

**§ 1124.9 [Amended]**

3. In § 1124.9(c), the words "and nonfat milk solids" are added following the word "butterfat".

4. In § 1124.10, paragraph (c)(2) is revised to read as follows:

**§ 1124.10 Producer-handler.**

* * * * *

(c) * * *

(2) The producer-handler handles fluid milk products from sources other than the milk production facilities and resources specified in paragraph (b) of this section, except as specified as follows:

(i) A producer-handler, other than a State institution, may receive fluid milk products from pool plants if such receipts do not exceed a daily average of 100 pounds during the month; and

(ii) A State institution that otherwise qualifies as a producer-handler, but which processes or receives milk for consumption outside of a State institution, may receive fluid milk products from pool plants if such receipts do not exceed a daily average of 1,000 pounds per day during the month.

* * * * *

5. Section 1124.19 is revised to read as follows:

**§ 1124.19 Product prices and butterfat differential.**

The prices specified in this section, which are computed by the Director of the Dairy Division, Agricultural Marketing Service, shall be used, where specified, in calculating the basic formula prices pursuant to § 1124.51. The term "workday" as used in this section shall mean each Monday through Friday that is not a national holiday.

(a) *Butter price* means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter on the Chicago Mercantile Exchange, using the price reported each week as the price for the day of the report, and for each following workday until the next price is reported.

(b) *Cheddar cheese price* means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), using the price reported each week as the price for the day of the report and for each following workday until the next price is reported.

(c) *Nonfat dry milk price* means the simple average of the prices per pound of nonfat dry milk for the first 15 days of the month computed as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat, and Grade A nonfat dry milk, respectively, for the Central States production area;

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding workday until the day such prices were previously reported; and

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price* means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area. The average shall be computed using the price reported each week as the daily price for that day and for each preceding workday until the day such price was previously reported.

(e) The *butterfat differential* is the number that results from subtracting the computation in paragraph (e)(2) of this section from the computation in paragraph (e)(1) of this section and rounding to the nearest one-tenth cent:

(1) Multiply 0.138 times the monthly average Chicago Mercantile Exchange Grade A (92-score) butter price as reported and published by the Dairy Division;

(2) Multiply 0.0028 times the average price per hundredweight, at test, for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month.

6. In § 1124.30, paragraphs (a)(1) (i) and (ii), and (c) (1), (2), and (3) are revised to read as follows:

**§ 1124.30 Reports of receipts and utilization.**

* * * * *

(a) * * *

(1) * * *

(i) Milk received directly from producers (including such handler's own production) and the pounds of nonfat milk solids contained therein;

(ii) Milk received from a cooperative association pursuant to § 1124.9(c) and

the pounds of nonfat milk solids contained therein;

* * * * *

(c) * * *

(1) The pounds of skim milk, butterfat, and nonfat milk solids received from producers;

(2) The utilization of skim milk, butterfat, and nonfat milk solids for which it is the handler pursuant to § 1124.9(b); and

(3) The quantities of skim milk, butterfat, and nonfat milk solids delivered to each pool plant pursuant to § 1124.9(c).

* * * * *

7. In § 1124.31, paragraphs (a)(1), (b) introductory text, and (b)(1) are revised to read as follows:

**§ 1124.31 Payroll reports.**

* * * * *

(a) * * *

(1) The total pounds of milk received from each producer, the pounds of butterfat and nonfat milk solids contained in such milk, and the number of days on which milk was delivered by the producer during the month;

* * * * *

(b) Each handler operating a partially regulated distributing plant who wishes computations pursuant to § 1124.75(a) to be considered in the computation of its obligation pursuant to § 1124.75 shall submit its payroll for deliveries of Grade A milk by dairy farmers which shall show:

(1) The total pounds of milk received from each producer and the pounds of butterfat and nonfat milk solids contained in such milk;

* * * * *

8. Section 1124.32 is revised to read as follows:

**§ 1124.32 Other reports.**

In addition to the reports required pursuant to § § 1124.30 and 1124.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligations under the order.

9. Section 1124.41 is amended by revising the second sentence of paragraph (c) to read as follows:

**§ 1124.41 Shrinkage.**

* * * * *

(c) * * * If the operator of a plant or a commercial food processing establishment pursuant to § 1124.20 purchases such milk on the basis of weights determined from its measurement at the farm, and butterfat tests and nonfat milk solids determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

10. The center heading preceding § 1124.50 is revised to read "CLASS AND COMPONENT PRICES".

11. Section 1124.50 is revised to read as follows:

**§ 1124.50 Class and component prices.**

The class and component prices for the month, per hundredweight or per pound, shall be as follows:

(a) The Class I price, subject to the provisions of § 1124.52, shall be the basic formula price defined in § 1124.51 for the second preceding month plus $1.90.

(b) The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1124.51(b) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month:

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.51(a) and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51(b).

(c) The Class III price shall be the basic formula price for the month.

(d) The Class III–A price for the month shall be the average Western States nonfat dry milk price for the month, as reported by the Department, less 12.5 cents, times an amount computed by subtracting from 9 an amount calculated by dividing .4 by such nonfat dry milk price, plus the butterfat differential times 35 and rounded to the nearest cent.

(e) The skim milk price per hundredweight shall be the basic formula price for the month pursuant to § 1124.51(a) less an amount computed by multiplying the butterfat differential computed pursuant to § 1124.19(e) by 35.

(f) The butterfat price per pound shall be the total of:

(1) The skim price computed in paragraph (e) of this section divided by 100; and

(2) The butterfat differential computed pursuant to § 1124.19(e) multiplied by 10.

(g) The nonfat milk solids price per pound shall be computed by subtracting the butterfat price, multiplied by 3.5, from the basic formula price and dividing the result by the average percentage of nonfat milk solids in the milk on which the basic formula price is based, as announced by the Dairy Division. The resulting price shall be rounded to the nearest whole cent.

12. Section 1124.51 is revised to read as follows:

**§ 1124.51 Basic formula prices.**

(a) The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent using the butterfat differential computed pursuant to § 1124.19(e).

(b) The basic Class II formula price for the month shall be the basic formula price determined pursuant to § 1124.51(a) for the second preceding month plus or minus the amount computed pursuant to paragraphs (b) (1) through (4) of this section:

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(A) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(B) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(C) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk

shall be the sum of the following computations:

(A) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(B) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (b)(3) (i) and (ii) of this section:

(i) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b)(2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

**§ 1124.51a [Removed]**

13. Section 1124.51a is removed.

14. Section 1124.53 is revised to read as follows:

**§ 1124.53 Announcement of class and component prices.**

The market administrator shall announce publicly:

(a) On or before the 5th day of each month, the Class I price for the following month and the Class III and Class III–A prices for the preceding month;

(b) On or before the 15th day of each month, the Class II price for the following month; and

(c) On or before the 5th day after the end of each month, the basic formula price, the prices for skim milk and butterfat, and the nonfat milk solids price.

15. The center heading preceding § 1124.60 is revised to read "DIFFERENTIAL POOL AND HANDLER OBLIGATIONS".

16. Section 1124.60 is revised to read as follows:

**§ 1124.60 Computation of handlers' obligations to pool.**

The market administrator shall compute each month for each handler defined in § 1124.9(a) with respect to each of the handler's pool plants, and for each handler described in § 1124.9 (b) and (c), an obligation to the pool by combining the amounts computed as follows:

(a) Multiply the pounds of producer milk in Class I pursuant to § 1124.44 by the difference between the Class I price, adjusted pursuant to § 1124.52, and the Class III price;

(b) Multiply the pounds of producer milk in Class II pursuant to § 1124.44 by the difference between the Class II price and Class III price;

(c) Add or subtract, as appropriate, the amount that results from multiplying the pounds of producer milk in Class III–A by the amount that the Class III–A price is more or less, respectively, than the Class III price;

(d) Multiply the pounds of skim milk in Class I producer milk pursuant to § 1124.44 by the skim milk price for the month;

(e) Multiply the nonfat milk solids price for the month by the pounds of nonfat milk solids associated with the pounds of producer skim milk in Class II and Class III during the month. The pounds of nonfat milk solids shall be computed by multiplying the producer skim milk pounds so assigned by the percentage of nonfat milk solids in the handler's receipts of producer skim milk during the month for each report filed separately;

(f) With respect to skim milk and butterfat overages assigned pursuant to § 1124.44(a)(15), (b), and paragraph (f)(6) of this section:

(1) Multiply the total pounds of butterfat by the butterfat price;

(2) Multiply the skim milk pounds assigned to Class I by the skim milk price;

(3) Multiply the pounds of nonfat milk solids associated with the skim milk pounds assigned to Class II and III by the nonfat milk solids price;

(4) Multiply the combined skim milk and butterfat pounds assigned to Class I by the difference between the Class I price, adjusted for location, and the Class III price;

(5) Multiply the combined skim milk and butterfat pounds assigned to Class II by the difference between the Class II price and the Class III price; and

(6) Overage at a nonpool plant that is located on the same premises as a pool plant shall be prorated between the quantity of skim and butterfat received by transfer from the pool plant and other source milk received at the nonpool plant. The pool plant operator's obligation to the pool with respect to such overage will be computed by adding the prorated pounds of skim milk and butterfat to the amounts assigned pursuant to § 1124.44(a)(15) and (b);

(g) With respect to skim milk and butterfat assigned to shrinkage pursuant to § 1124.44(a)(10) and (b):

(1) Multiply the total pounds of butterfat by the butterfat price;

(2) Multiply the skim milk pounds assigned to Class I by the skim milk price;

(3) Multiply the pounds of nonfat milk solids associated with the skim milk pounds assigned to Class II and III by the nonfat milk solids price;

(4) Multiply the combined skim milk and butterfat pounds assigned to Class I by the difference between the Class I price, adjusted for location, and the Class III price;

(5) Multiply the combined skim milk and butterfat pounds assigned to Class II by the difference between the Class II price and the Class III price; and

(6) Subtract the Class III value of the milk at the previous month's nonfat milk solids and butterfat prices;

(h) Multiply the difference between the Class I price, adjusted for the location of the pool plant, and the Class III price by the combined pounds of skim milk and butterfat assigned to Class I pursuant to § 1124.43(f) and subtracted from Class I pursuant to § 1124.44(a)(8) (i) through (iv), (vii), and § 1124.44(b), excluding:

(1) Receipts of bulk fluid cream products from an other order plant;

(2) Receipts of bulk concentrated fluid milk products from pool plants, other order plants, and unregulated supply plants; and

(3) Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement

fund of another order under § 1124.75(b)(4) or (c);

(i) Multiply the combined pounds of skim milk and butterfat subtracted from Class I pursuant to § 1124.44(a)(8) (v) and (vi) and § 1124.44(b) by the difference between the Class I price at the transferor plant and the Class III price;

(j) Multiply the difference between the Class I and Class III prices, applicable at the location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1124.43(f) and § 1124.44(a)(8)(v) and the combined pounds of skim milk and butterfat in receipts from an unregulated supply plant assigned pursuant to § 1124.44(a)(12) and (b), excluding such skim milk or butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent quantity disposed of to such plant by handlers fully regulated by any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(k) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price applicable at the location of the pool plant and the Class III price) by the combined pounds of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1124.43(f);

(l) Add or subtract, as appropriate, the amount necessary to correct errors disclosed by the verification of the handler's receipts and utilization of skim milk and butterfat as reported for previous months; and

(m) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

17. Section 1124.61 is revised to read as follows:

**§ 1124.61 Computation of weighted average differential price.**

A weighted average differential price for each month shall be computed by the market administrator as follows:

(a) Combine into one total the value computed pursuant to § 1124.60 (a) through (c) and (f) through (m) for all handlers who filed the reports prescribed by § 1124.30 for the month and who made the payments pursuant to § 1124.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1124.74;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer settlement fund;

(d) Divide the resulting amount by the sum, for all handlers, of the total hundredweight of producer milk and the total hundredweight for which a value is computed pursuant to § 1124.60(j); and

(e) Subtract not less than 4 cents per hundredweight nor more than 5 cents per hundredweight. The result shall be the weighted average differential price.

18. Section 1124.62 is redesignated as § 1124.63 and revised to read as follows:

**§ 1124.63 Announcement of the weighted average differential price, the producer nonfat milk solids price, and an estimated uniform price.**

The market administrator shall announce on or before the 14th day after the end of each month, the following prices for such month:

(a) The weighted average differential price;

(b) The producer nonfat milk solids price; and

(c) An estimated uniform price per hundredweight of milk which is computed by adding the weighted average differential price to the basic formula price.

19. A new § 1124.62 is added to read as follows:

**§ 1124.62 Computation of producer nonfat milk solids price.**

The producer nonfat milk solids price shall be computed by the market administrator each month as follows:

(a) Combine into one total the values computed pursuant to § 1124.60 (d) and (e) for all handlers who filed reports pursuant to § 1124.30 and who made payments pursuant to § 1124.71 for the preceding month;

(b) Divide the resulting amount by the total pounds of nonfat milk solids in producer milk; and

(c) Round to the nearest whole cent.

20. Section 1124.70 is revised to read as follows:

**§ 1124.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement" fund into which shall be deposited all payments made by handlers pursuant to §§ 1124.71 and 1124.75 and out of which shall be made all payments to handlers pursuant to § 1124.72. Payments due a handler from the fund shall be offset against payments due from such handler.

21. Section 1124.71 is revised to read as follows:

**§ 1124.71 Payments to the producer-settlement fund.**

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, which results from subtracting the sum computed pursuant to paragraph (a) of this section from the sum computed pursuant to paragraph (b) of this section:

(a) The sum of:

(1) The total obligation of the handler for such month as determined pursuant to § 1124.60; and

(2) For a cooperative association handler, the amount due from other handlers pursuant to § 1124.73(d).

(b) The sum of:

(1) The value of milk received by the handler from producers at the applicable prices pursuant to § 1124.73(a)(2) (i), (ii), and (iii);

(2) The amount to be paid by the handler to cooperative associations pursuant to § 1124.73(d); and

(3) The value at the weighted average differential price adjusted for the location of the plant(s) at which received (not to be less than zero) with respect to the total hundredweight of skim milk and butterfat in other source milk for which a value was computed for such handler pursuant to § 1124.60(j); and

(c) On or before the 25th day after the end of the month, each handler operating a plant specified in § 1124.7(d) (2) and (3), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of as route disposition in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant as route disposition in the marketing areas regulated by two or more market pool orders, the reconstituted skim milk

assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in paragraph (c)(1) of this section to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant (but not to be less than the Class III price) and subtract its value at the Class III price.

22. Section 1124.72 is revised to read as follows:

**§ 1124.72 Payments from the producer-settlement fund.**

On or before the 18th day after the end of the month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1124.71(b) exceeds the amount computed pursuant to § 1124.71(a), less any unpaid obligations of such handler to the market administrator pursuant to §§ 1124.71, 1124.75, 1124.85, and 1124.86. However, if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

23. Section 1124.73 is revised to read as follows:

**§ 1124.73 Payments to producers and to cooperative associations.**

(a) Each handler shall make payment pursuant to this paragraph or paragraph (b) of this section to each producer from whom milk is received during the month:

(1) On or before the last day of the month, to each producer who did not discontinue shipping milk to such handler before the 18th day of the month at not less than the Class III price for the preceding month per hundredweight of milk received from the producer during the first 15 days of the month, subject to adjustment for proper deductions authorized in writing by the producer;

(2) On or before the 19th day after the end of each month, an amount computed as follows:

(i) Multiply the butterfat price for the month by the total pounds of butterfat in milk received from the producer;

(ii) Add the amount that results from multiplying the producer nonfat milk solids price for the month by the total pounds of nonfat milk solids in the milk received from the producer;

(iii) Add the amount that results from multiplying the total hundredweight of milk received from the producer by the weighted average differential price for the month as adjusted pursuant to § 1124.74(a);

(iv) Subtract payments made to the producer pursuant to paragraph (a)(1) of this section;

(v) Subtract proper deductions authorized in writing by the producer; and

(vi) Subtract any deduction required pursuant to statute; and

(3) If by the 19th day after the end of the month a handler has not received full payment from the market administrator pursuant to § 1124.72, the payments to producers required pursuant to paragraph (a)(2) of this section may be reduced uniformly as a percentage of the amount due each producer by a total sum not in excess of the remainder due from the market administrator. The handler shall pay the balance due producers on or before the date for making payments pursuant to such paragraph next following receipt of the full payment from the market administrator.

(b) The payments required in paragraph (a) of this section shall, upon the request of a cooperative association qualified under § 1124.18, be made to the association or its duly authorized agent for milk received from each producer who has given such association authorization by contract or other written instrument to collect the proceeds from the sale of the producer's milk. All payments required pursuant to this paragraph shall be made on or before the second day prior to the dates specified for such payment in paragraph (a)(2) of this section.

(c) Each handler shall pay to each cooperative association which operates a pool plant, or the cooperative's duly authorized agent, for butterfat and nonfat milk solids received from such plant in the form of fluid milk products as follows:

(1) On or before the second day prior to the date specified in paragraph (a)(1) of this section, for butterfat and nonfat milk solids received during the first 15 days of the month at not less than the butterfat and nonfat milk solids prices, respectively, for the preceding month; and

(2) On or before the 15th day after the end of the month, an amount of money determined in accordance with computations made on the same basis as those specified in paragraph (a)(2) (i) through (iii) of this section, minus any payment made pursuant to paragraph (c)(1) of this section.

(d) Each handler pursuant to § 1124.9(a) that received milk from a cooperative association that was a handler pursuant to § 1124.9(c) shall pay the cooperative association for such milk as follows:

(1) On or before the second day prior to the date specified in paragraph (a)(1) of this section, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 17th day after the end of each month, for milk received during the month an amount of money determined in accordance with the computations specified in paragraphs (a)(2) (i) through (iii) of this section, minus any payment made pursuant to paragraph (d)(1) of this section.

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act.

(f) In making payments to producers pursuant to this section, each handler shall provide each producer, on or before the 19th day of each month, with a supporting statement for milk received from the producer during the previous month in such form that it may be retained by the producer, which shall show:

(1) The identity of the handler and the producer;

(2) The total pounds of milk delivered by the producer, the pounds of butterfat and nonfat milk solids contained therein, and, unless previously provided, the pounds of milk in each delivery;

(3) The minimum rates at which payment to the producer is required under the provisions of this section;

(4) The rate and amount of any premiums or of payments made in excess of the minimums required under this order;

(5) The amount or rate of each deduction claimed by the handler, together with an explanation of each such deduction; and

(6) The net amount of payment to the producer.

(g) In making payments to a cooperative association in aggregate pursuant to this section, each handler shall, upon request, provide the cooperative association, with respect to each producer for whom such payment is made, any or all of the information specified in paragraph (f) of this section.

**§ 1124.74 [Removed]**

24. Section 1124.74 is removed.

**§ 1124.75 [Redesignated as § 1124.74 and Amended]**

25. Section 1124.75 is redesignated as § 1124.74, and paragraph (c) is revised to read as follows:

**§ 1124.74 Plant location adjustments for producers and on nonpool milk.**

* * * * *

(c) For purposes of the computations pursuant to §§ 1124.71(a) and 1124.72, the weighted average differential price for all milk shall be adjusted at the rates set forth in § 1124.52 for Class I milk applicable at the location of the nonpool plant from which the milk or filled milk was received, except that the adjusted weighted average differential price shall not be less than zero.

**§ 1124.76 [Redesignated as § 1124.75 and Amended]**

26. Section 1124.76 is redesignated as § 1124.75. In the newly redesignated § 1124.75(a)(1)(i) in the second sentence, the words "or estimated uniform price" are added after the words "uniform price"; and in the last sentence the reference "§ 1124.60(f)" is revised to read "§ 1124.60(j)" and the reference "§ 1124.71(a)(2)(iii)" is revised to read "§ 1124.71(b)(3)". In § 1124.75(a)(2)(i), the reference to "§ 1124.74" is revised to read "§ 1124.19(e)". In § 1124.75(b)(4), the word "estimated" is inserted before the words "uniform price".

**§ 1124.77 [Redesignated as § 1124.76]**

27. Section 1124.77 is redesignated as § 1124.76.

**§ 1124.78 [Redesignated as § 1124.77 and Amended]**

28. Section 1124.78 is redesignated as § 1124.77, and the reference in paragraph (a) introductory text to "§ 1124.77" is changed to read "§ 1124.75".

**§ 1124.85 [Amended]**

29. In § 1124.85(b), the reference "§ 1124.60(f)" is changed to read "§ 1124.60 (h) and (j)" and in § 1124.85(c)(2), the reference "§ 1124.76(b)(2)(ii)" is changed to read "§ 1124.75(b)(2)(ii)".

## PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. The authority citation for part 1135 is revised to read as follows:

**Authority:** 7 U.S.C. 601–674.

**§ 1135.9 [Amended]**

2. In § 1135.9(c), the words "and protein tests" are added following the word "butterfat".

3. Section 1135.19 is revised to read as follows:

**§ 1135.19 Product prices and butterfat differential.**

The prices specified in this section, which are computed by the Director of the Dairy Division, Agricultural Marketing Service, shall be used, where specified, in calculating the basic formula prices pursuant to § 1135.51. The term "workday" as used in this section shall mean each Monday through Friday that is not a national holiday.

(a) *Butter price* means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter on the Chicago Mercantile Exchange, using the price reported each week as the price for the day of the report, and for each following workday until the next price is reported.

(b) *Cheddar cheese price* means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the *National Cheese Exchange* (Green Bay, WI), using the price reported each week as the price for the day of the report and for each following workday until the next price is reported.

(c) *Nonfat dry milk price* means the simple average of the prices per pound of nonfat dry milk for the first 15 days of the month computed as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat, and Grade A nonfat dry milk, respectively, for the Central States production area;

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding workday until the day such prices were previously reported; and

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price* means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area. The average shall be computed using the price reported each week as the daily price for that day and for each preceding workday until the day such price was previously reported.

(e) The *butterfat differential* is the number that results from subtracting the computation in paragraph (e)(2) of this section from the computation in paragraph (e)(1) of this section and rounding to the nearest one-tenth cent:

(1) Multiply 0.138 times the monthly average Chicago Mercantile Exchange Grade A (92-score) butter price, as reported and published by the Dairy Division;

(2) Multiply 0.0028 times the average price per hundredweight, at test, for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month.

4. In § 1135.30, paragraphs (b) and (d) are redesignated as paragraphs (d) and (e), respectively, and the introductory text of this section and paragraphs (a) and (c) are revised, and a new paragraph (b) is added to read as follows:

**§ 1135.30 Reports of receipts and utilization.**

On or before the 9th day after the end of the month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, the following information for such month:

(a) Each handler qualified pursuant to § 1135.9(a) shall report for each pool plant operated by the handler the quantities of skim milk and butterfat contained in or represented by:

(1) Producer milk received at such plants or diverted by the handler to other plants, and the protein content of such milk;

(2) Producer milk received at such plants from handlers qualified pursuant to § 1135.9 (c) and (d), and the protein content of such milk; and

(3) Fluid milk products and bulk fluid cream products from other pool plants and other source milk received at such plants.

(b) Each handler qualified pursuant to § 1135.9 (b), (c), or (d) shall report the quantities of producer milk received and the butterfat and protein contained therein.

(c) Each handler submitting reports pursuant to paragraphs (a) and (b) of this section shall report the utilization or disposition of all milk, filled milk, and milk products required to be reported, and inventories on hand at the beginning and end of each month in the form of fluid milk products and products specified in § 1135.40(b)(1).

* * * * *

5. In § 1135.31(a), the word "20th" is changed to "22nd", the semicolon at the end of paragraph (a) introductory text is changed to a colon, and paragraph (a)(4) is revised to read as follows:

**§ 1135.31 Payroll reports.**

(a) * * *

(4) The average butterfat and protein content of his/her milk;

* * * * *

6. In § 1135.41, the colon at the end of paragraph (b)(3) is changed to a

semicolon and paragraph (c) is revised to read as follows:

**§ 1135.41 Shrinkage.**

* * * * *

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1135.9 (b) or (c) or a proprietary bulk tank handler is the handler pursuant to § 1135.9(d), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and protein and butterfat tests determined from farm bulk tank samples, the applicable percentage for the cooperative association or the proprietary bulk tank handler shall be zero.

7. The center heading preceding § 1135.50 is revised to read "CLASS AND COMPONENT PRICES".

8. In § 1135.50, the reference in paragraph (b) introductory text "§ 1135.51a" is revised to read "§ 1135.51(b)"; in paragraph (b)(1), the reference "§ 1135.51" is revised to read "§ 1135.51(a)"; in paragraph (b)(2), the reference "§ 1135.51a" is changed to read "§ 1135.51(b)"; the section heading and paragraph (a) is revised as read as follows; and new paragraphs (e), (f), and (g) are added as follows:

**§ 1135.50 Class and component prices.**

* * * * *

(a) The Class I price shall be the basic formula price pursuant to § 1135.51(a) for the second preceding month plus $1.50.

* * * * *

(e) The skim milk price per hundredweight shall be the basic formula price for the month pursuant to § 1135.51(a) less an amount computed by multiplying the butterfat differential computed pursuant to § 1135.19(e) by 35.

(f) The butterfat price per pound shall be the total of:

(1) the skim price computed in paragraph (e) of this section divided by 100; and

(2) the butterfat differential computed pursuant to § 1135.19(e) multiplied by 10.

(g) The milk protein price per pound shall be computed by subtracting the butterfat price, multiplied by 3.5, from the basic formula price and dividing the result by the percentage of protein in the milk on which the basic formula price is based, as announced by the Dairy Division. The resulting price shall be rounded to the nearest whole cent.

9. Section 1135.51 is revised to read as follows:

**§ 1135.51 Basic formula prices.**

(a) The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent using the butterfat differential computed pursuant to § 1135.19(e).

(b) The basic Class II formula price for the month shall be the basic formula price determined pursuant to § 1135.51(a) for the second preceding month plus or minus the amount computed pursuant to paragraphs (b)(1) through (4) of this section:

(1) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1135.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(i) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(A) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(B) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(C) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(ii) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(A) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(B) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(2) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(3) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b)(2) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (b)(3) (i) and (ii) of this section:

(i) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(ii) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(4) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b)(2) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (b)(3) of this section.

**§ 1135.51a [Removed]**

10. Section 1135.51a is removed.

11. Section 1135.53 is revised to read as follows:

**§ 1135.53 Announcement of class and component prices.**

The market administrator shall announce publicly:

(a) On or before the 5th day of each month, the Class I price for the following month and the Class III and Class III-A prices for the preceding month;

(b) On or before the 15th day of each month, the Class II price for the following month; and

(c) On or before the 5th day after the end of each month, the basic formula price, the prices for skim milk and butterfat, and the milk protein price.

12. A center heading preceding § 1135.60 is added to read "DIFFERENTIAL POOL AND HANDLER OBLIGATIONS".

13. Section 1135.60 is revised to read as follows:

**§ 1135.60 Computation of handlers' obligations to pool.**

The market administrator shall compute each month for each handler described in § 1135.9(a) with respect to each of the handler's pool plants and for each handler qualified pursuant to § 1135.9(b), (c), or (d) an obligation to the pool by combining the amounts computed as follows:

(a) Multiply the hundredweight of producer milk assigned to Class I milk pursuant to § 1135.44(c) by the difference between the Class I price and the Class III price;

(b) Multiply the hundredweight of producer milk assigned to Class II milk pursuant to § 1135.44(c) by the difference between the Class II price and the Class III price;

(c) Add or subtract, as appropriate, the amount that results from multiplying the pounds of producer milk in Class III–A by the amount that the Class III–A price is more or less, respectively, than the Class III price;

(d) Multiply the skim milk price by the hundredweight of producer skim milk assigned to Class I milk pursuant to § 1135.44(a);

(e) Multiply the milk protein price by the pounds of protein in producer skim milk assigned to Class II and Class III pursuant to § 1135.44(a). The pounds of protein shall be computed by multiplying the hundredweight of skim milk so assigned by the average percentage of protein in all producer skim milk received by the handler during the month;

(f) With respect to skim milk and butterfat overages assigned pursuant to § 1135.44(a)(14) and (b):

(1) Multiply the total pounds of butterfat by the butterfat price;

(2) Multiply the skim milk pounds assigned to Class I by the skim milk price;

(3) Multiply the protein pounds associated with the skim milk pounds assigned to Class II and III by the milk protein price;

(4) Multiply the combined skim milk and butterfat pounds assigned to Class I by the difference between the Class I price and the Class III price; and

(5) Multiply the combined skim milk and butterfat pounds assigned to Class II by the difference between the Class II price and the Class III price;

(g) With respect to skim milk and butterfat assigned to shrinkage pursuant to § 1135.44(a)(9) and (b):

(1) Multiply the total pounds of butterfat by the butterfat price;

(2) Multiply the skim milk pounds assigned to Class I by the skim milk price;

(3) Multiply the protein pounds associated with the skim milk pounds assigned to Class II and III by the milk protein price;

(4) Multiply the combined skim milk and butterfat pounds assigned to Class I by the difference between the Class I price and the Class III price;

(5) Multiply the combined skim milk and butterfat pounds assigned to Class II by the difference between the Class II price and the Class III price; and

(6) Subtract the Class III value of the milk at the previous month's protein and butterfat prices;

(h) Multiply the difference between the Class I price and the Class III price by the combined pounds of skim milk and butterfat assigned to Class I pursuant to § 1135.43(d) and subtracted from Class I pursuant to § 1135.44(a)(7)(i) through (iv) and (b), excluding:

(1) Receipts of bulk fluid cream products from an other order plant;

(2) Receipts of bulk concentrated fluid milk products from pool plants, other order plants, and unregulated supply plants; and

(3) Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another order under § 1135.76(a)(5) or (c);

(i) Multiply the difference between the Class I price and the Class III price by the combined pounds of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7)(v) and (vi) and § 1135.44(b);

(j) Multiply the difference between the Class I price and the Class III price by the combined pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to § 1135.43(d) and § 1135.44(a)(7)(i) and by the pounds of skim and butterfat subtracted from Class I pursuant to § 1135.44(a)(11) and (b), excluding the skim milk and butterfat in receipts of bulk fluid milk products from unregulated supply plants to the extent an equivalent quantity of skim milk and butterfat disposed of to any such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(k) Subtract, for reconstituted milk made from receipts of nonfluid milk products, an amount computed by multiplying $1.00 (but not more than the difference between the Class I price and the Class III price) by the combined pounds of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to § 1135.43(d); and

(l) For pool plants that transfer bulk concentrated fluid milk products to other pool plants and other order plants, add or subtract the amount per hundredweight of any class price change from the previous month that results from any inventory reclassification of bulk concentrated fluid milk products that occurs at the transferee plant. Any applicable class price change shall be applied to the plant that used the concentrated milk in the event that the concentrated fluid milk products were made from bulk unconcentrated fluid milk products received at the plant during the prior month.

14. Section 1135.61 is revised to read as follows:

**§ 1135.61 Computation of weighted average differential price.**

A weighted average differential price for all milk received from producers shall be computed by the market administrator as follows:

(a) Combine into one total the values computed pursuant to § 1135.60 (a) through (c) and (f) through (l) for all handlers who filed reports pursuant to § 1135.30 for the month and who made the payments pursuant to § 1135.71 for the preceding month;

(b) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Divide the resulting amount by the sum, for all handlers, of the total hundredweight of producer milk and the total hundredweight for which values were computed pursuant to § 1135.60(j); and

(d) Subtract not less than 4 cents nor more than 5 cents per hundredweight of milk included under paragraph (c) of this section. The result shall be the weighted average differential price.

**§ 1135.62 [Redesignated as § 1135.63]**

15. Section 1135.62 is redesignated as § 1135.63 and revised to read as follows:

**§ 1135.63 Announcement of the weighted average differential price, the producer protein price, and an estimated uniform price.**

The market administrator shall announce on or before the 14th day after the end of each month the following prices for such month:

(a) The weighted average differential price;

(b) The producer protein price; and

(c) An estimated uniform price per hundredweight of milk computed by adding the weighted average differential price to the basic formula price.

16. A new § 1135.62 is added to read as follows:

**§ 1135.62 Computation of producer protein price.**

A producer protein price shall be computed by the market administrator each month as follows:

(a) Combine into one total the values computed pursuant to § 1135.60(d) and (e) for all handlers who filed reports pursuant to § 1135.30 and who made payments pursuant to § 1135.71 for the preceding month;

(b) Divide the resulting amount by the total pounds or protein contained in producer milk; and

(c) Round to the nearest whole cent. The result shall be the producer protein price.

17. Section 1135.70 is revised to read as follows:

**§ 1135.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1135.71, 1135.74, 1135.75, and 1135.76 and out of which he shall make all payments due handlers pursuant to §§ 1135.72, and 1135.75.

18. Section 1135.71 is revised to read as follows:

**§ 1135.71 Payments to the producer-settlement fund.**

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount as specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

(a) The total obligation of the handler for such month as determined pursuant to § 1135.60.

(b) The sum of:

(1) The value computed by multiplying the weighted average differential price by the hundredweight of producer milk received from handlers qualified pursuant to § 1135.9(c) and from producers during the month;

(2) The value computed for the protein contained in the producer milk included under paragraph (b)(1) of this section at the producer protein price; and

(3) The value at the weighted average differential price of the hundredweight of skim milk and butterfat for which a value is computed pursuant to § 1135.60(j).

19. Section 1135.72 is revised to read as follows:

**§ 1135.72 Payments from the producer-settlement fund.**

On or before the 18th day after the end of the month, the market administrator shall pay to each handler the amount, if any, by which the amount computed for such handler pursuant to § 1135.71(b) exceeds the amount computed pursuant to § 1135.71(a). If at such time the balance in the producer-settlement fund is insufficient to make all of the payments pursuant to this section, the market administrator shall reduce uniformly such payment and shall complete such payment as soon as the necessary funds become available.

20. In § 1135.73, paragraphs (b), (d), and (e) (2) through (6) are revised to read as follows:

**§ 1135.73 Payments to producers and to cooperative associations.**

* * * * *

(b) On or before the 19th day after the end of each month, each handler shall pay to each producer from whom milk was received during the month, a sum computed as follows:

(1) Multiply the butterfat price for the month by the total pounds of butterfat in milk received from the producer;

(2) Multiply the producer protein price for the month by the total pounds of protein in such milk;

(3) Multiply the weighted average differential price for the month multiplied by the hundredweight of such milk;

(4) Subtract payments made to the producer pursuant to paragraph (a) of this section;

(5) Subtract deductions for marketing services pursuant to § 1135.86; and

(6) Subtract proper deductions authorized in writing by such producer.

* * * * *

(d) In the event a handler has not received full payment from the market administrator pursuant to § 1135.72 by the 19th day of the month, the handler may reduce pro rata the payments to producers pursuant to paragraphs (b) and (c) of this section by not more than the amount of such underpayment. Following receipt of the balance due from the market administrator, the handler shall complete payments to producers not later than the next payment date provided under this paragraph.

(e) * * *

(2) The total pounds of milk received from the producer and the pounds of butterfat and protein contained therein;

(3) The minimum rates at which payment is required pursuant to this section;

(4) The rates used in making payment, if such rates are other than the required applicable minimums;

(5) The amount (or rate per hundredweight) of each deduction claimed by the handler, including any deduction claimed under § 1135.86, together with an explanation of each deduction; and

(6) The net amount of the payment to the producer.

**§ 1135.74 [Removed]**

21. Section 1135.74 is removed.

**§ 1135.76 [Redesignated as § 1135.74 and Amended]**

22. Section 1135.76 is redesignated as § 1135.74 and the following changes are made in that section:

a. In newly designated § 1135.74(a)(4), the word "estimated" is inserted before the words "uniform price";

b. In § 1135.74(b)(1)(ii), the words "or estimated uniform price" are added following the words "uniform price" everywhere it appears;

c. In § 1135.74 (b)(1)(iii) introductory text, the reference "§ 1135.60(f)" is revised to read "§ 1135.60(j)", the reference "§ 1135.71(a)(2)(ii)" is revised to read "§ 1135.71(b)(2)".

d. In § 1135.74, paragraphs (b)(1)(iii) (*a*) through (*c*) are redesignated as (b)(1)(iii)(A) through (C); and

e. In § 1135.74(b)(2)(i) and (ii), the reference "§ 1135.74" is changed to read "§ 1135.19(e)".

**§ 1135.77 [Redesignated as § 1135.75]**

23. Section 1135.77 is redesignated as § 1135.75.

**§ 1135.78 [Redesignated as § 1135.76 and Amended]**

24. Section 1135.78 is redesignated as § 1135.76, and the references "1135.76, 1135.77, 1135.78" are changed to read "1135.74, 1135.75, 1135.76", respectively.

**§ 1135.85 [Amended]**

25. In § 1135.85(b), the reference "§ 1135.60(d) and (f)" is changed to read "§ 1135.60(h) and (j)"; and in § 1135.85(c), the reference "§ 1135.76(a)(2)" is changed to read "§ 1135.74(a)(2)".

Dated: March 28, 1994.

**Patricia Jensen,**

*Acting Assistant Secretary for Marketing and Inspection Services.*

[FR Doc. 94–7830 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

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## 7 CFR PART 1220

**[No. LS–94–005]**

## Results of Soybean Referendum

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of referendum results.

**SUMMARY:** The Agricultural Marketing Service (AMS) is announcing the results of a national referendum on the Soybean Promotion and Research Order and program changes which are effective April 1.

**FOR FURTHER INFORMATION CONTACT:** Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division, AMS, USDA, room 2624–S; P.O. Box 96456; Washington, DC 20090–6456. Telephone number 202/720–1115.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Soybean Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 6301 et. seq.), the U.S. Department of Agriculture conducted the required referendum on February 9, 1994, among soybean producers to determine if continuation of the soybean promotion and research program was favored.

Of the 85,606 valid ballots cast 46,060 (53.8 percent) favored and 39,546 (46.2 percent) opposed continuing the program. A simple majority was required to pass the referendum.

Therefore, the Secretary of Agriculture has determined based on the referendum results that the required majority of soybean producers voting absentee and in person in the February 9, 1994, national referendum voted to continue the National Soybean Promotion and Research Program. As a result, assessments of one-half of one percent of the net market price of soybeans sold by producers will continue to be collected and used by the United Soybean Board and the Qualified State Soybean Boards (QSSB).

In addition, the Secretary has determined that the program changes required by the Act as a result of the referendum are effective April 1, 1994.

These changes include the following:

(1) Refunds on soybeans sold beginning April 1, 1994, will be limited to 10 percent of total collections, on a State-by-State basis;

(2) Producers requesting refunds as prescribed in the legislation will receive a pro rata share of their State's 10 percent reserve for refunds up to a full refund of assessments paid; and

(3) Refunds on soybeans sold beginning April 1, 1994, will be paid after the end of the respective QSSB's fiscal year.

In addition, the Secretary will conduct a poll of soybean producers by October 1, 1995, to determine if producers support conducting a referendum on the continuance of the payment of refunds under the Order.

Dated: March 29, 1994.

**Lon Hatamiya,**

*Administrator.*

[FR Doc. 94–7888 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### 13 CFR Parts 302 and 305

**Docket No. [940106–4006]**

**RIN 0610–AA53**

## Designation of Areas; Public Works and Development Facilities Program; Use of Current Data

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The purpose of these amendments to EDA's rules at 13 CFR parts 302, subpart A and 305, subpart A, is to more accurately reflect current policies, recent census data, and median family incomes. These amendments are necessary in order to bring current data into play in determining eligibility. The intended effect is to designate the most distressed areas and to fund needed economic development projects in accordance with current data.

**DATES:** Effective date April 1, 1994.

Comments received by May 31, 1994, will be considered in promulgating a final rule.

**ADDRESSES:** Send comments to Joseph M. Levine, (202) 482–4687, U.S. Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Joseph M. Levine, (202) 482–4687.

**SUPPLEMENTARY INFORMATION:** The basis for and purpose of these amendments is the need to update census and income data to assure timely eligibility and funding. EDA is amending 13 CFR part 302, Subpart A—Standards for Designation of Redevelopment Areas Under Section 401(a) of the Act. Section 302.2, designation based on population loss due to lack of employment opportunities, is revised by substituting for "substantial" population loss, the phrase a loss of "* * * at least 25 percent from the beginning to the end of the most recent 10-year period, from one census to the next, for which data are available, due to lack of employment opportunity, as certified by the area's state employment security agency." Section 302.3, designation based on median family income, is amended by deleting references to the 1980 U.S. Census, and inserting in lieu thereof, designation based on income data from the most recent 10-year census period for which data is available. Paragraph 302.7(a)(2), public works impact program (PWIP) designation based on outmigration in rural areas, is amended by deleting references to the 1980 U.S. Census, and inserting in lieu thereof, designation based on available data for the most recent 10-year census period. Paragraph 302.8(a)(2), special impact area designation based on outmigration in rural areas, is amended by deleting reference to the 1980 U.S. Census, and inserting in lieu thereof, designation based on available data for the most recent 10-year census period.

EDA is also amending 13 CFR part 305 subpart A—Direct and Supplementary Grants for Public Works and Development Facilities, at 13 CFR 305.5 on supplementary grant rates, to strike outdated income figures and to insert, in lieu thereof, new figures which constitute the same percentage of the national median family income for the 1990 Census, as did the previous figures used for earlier Census figures.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delay effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for this rule.

However, because the Department is interested in receiving comments from those who will benefit from the amendments, this rule is being issued as interim final. Public comments on the interim rule are invited and should be sent to the address listed in the **ADDRESSES** section above.

Since a notice and an opportunity for comment are not required to be given for the rule under section 553 of the Administrative Procedure Act (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 601–612), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511).

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

This rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

**List of Subjects**

*13 CFR Part 302*

Community development.

*13 CFR Part 305*

Community development; Community facilities; Grant programs—community development; Indians; Loan programs—community development.

For the reasons set out in the preamble, 13 CFR parts 302 and 305 are amended as set forth below:

## PART 302—DESIGNATION OF AREAS

The authority citation for part 302 is revised to read as follows:

**Authority:** Sec. 701, Public Law 89–136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended).

2. Section 302.2 is revised to read as follows:

**§ 302.2 Designation on the basis of loss of population.**

The Assistant Secretary shall designate those areas as redevelopment areas where he/she determines that there has been a population decline of at least 25 percent from the beginning to the end of the most recent 10-year period, from one census to the next, for which data are available, due to lack of employment opportunity, as certified by the area's state employment security agency.

3. Section 302.3 is amended by revising paragraph (b) to read as follows:

**§ 302.3 Designation on the basis of median family income.**

* * * * *

(b) Determinations of median family income are to be based on the income figures shown from the beginning to the end of the most recent 10-year census period for which data is available.

4. Section 302.7 is amended by revising paragraph (a)(2) to read as follows:

**§ 302.7 Designation of public works impact program areas.**

(a) * * *

(2) Rural areas having substantial outmigration. This includes an area which has experienced a minimum outmigration rate of at least 25 percent during the period from the beginning to the end of the most recent ten (10) year census period for which data is available.

* * * * *

5. Section 302.8 is amended by revising paragraph (a)(2) to read as follows:

**§ 302.8 Designation of special impact areas.**

* * * * *

(a) * * *

(2) Rural areas having substantial outmigration. This includes any area which has experienced a minimum outmigration rate of at least 25 percent during the period from the beginning to the end of the most recent ten (10) year census period.

* * * * *

## PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

1. The authority citation for part 305 continues to read as follows:

**Authority:** Sec. 701, Public Law 89–136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10–4, as amended (40 F.R. 56702, as amended).

2. Section 305.5 is amended by revising paragraphs (b)(3) (vi), (vii) and (viii) to read as follows:

**§ 305.5 Supplementary grant rates.**

* * * * *

(b) * * *

(3) * * *

| Projects | Maximum grant rates (percent) |
|---|---|
| * * * * * | |
| (vi) Projects located in areas designated under Title IV of the Act in which the median annual family income is $13,103 or below, or the average unemployment rate for the preceding 24 months is 12 percent or higher. | |
| (vii) Projects located in areas designated under Title IV of the Act in which the median annual family income is $13,104 to $14,618, or the average unemployment rate for the preceding 24 months is 10 percent to 11.9 percent | 70 |
| (viii) Projects located in areas designated under Title IV of the Act in which the median annual family income is $14,619 to $16,098, or the average unemployment rate for the preceding 24 months is 8 percent to 9.9 percent. ... | 60 |

* * * * *

Dated: March 24, 1994.

**William W. Ginsberg,**

*Assistant Secretary for Economic Development.*

[FR Doc. 94–7858 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–24–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 93–CE–21–AD; Amendment 39–8868; AD 94–07–10]**

### Airworthiness Directives: Fairchild Aircraft SA226 and SA227 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Fairchild Aircraft SA226 and SA227 series airplanes. This action requires repetitively inspecting (visually) the wing skin for cracks; dye penetrant inspecting the spar straps if the wing skin is found cracked; and, if any crack is found in the spar straps, repairing the spar straps and modifying the wing skin. This action also provides the option of modifying the wing skin as terminating action for the repetitive inspections. Reports of wing skin cracking because of repeated bending of the wing during service on several of the affected airplanes prompted this action. The actions specified by this AD are intended to prevent failure of the wing skin at the top aft outboard corner of the battery box, which could result in structural damage to the wing.

**DATES:** Effective May 27, 1994.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 1994.

**ADDRESSES:** Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone (512) 824–9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 2601

Meacham Boulevard, Fort Worth, Texas 76137–0150; telephone (817) 222–5150; facsimile (817) 222–5959.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes was published in the **Federal Register** on October 4, 1993 (58 FR 51583). The action proposed to require repetitively inspecting (visually) the wing skin for cracks; dye penetrant inspecting the spar straps if the wing skin is found cracked; and, if any crack is found in the spar straps, repairing the spar straps and modifying the wing skin. This action also proposed providing the option of modifying the wing skin as terminating action for the repetitive inspections. The proposal would require accomplishing the actions in accordance with the following service bulletins (SB), as applicable:

- Fairchild SB 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12);
- Fairchild SB 227–57–005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or
- Fairchild Aircraft SB CC7–57–002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

One commenter, Ameriflight, states that the liquid penetrant inspection required on the part number (P/N) 2731130 straps when there is a crack in the wing skin is unjustified. Ameriflight conducted a survey of a number of SA226 and SA227 series airplane owners (a total of 101 airplanes). From this survey, Ameriflight found that 57 airplanes had at least one wing with a skin crack evident. None of these 57 have any cracks in the strap, with many of the airplanes having in excess of 20,000 hours time-in-service (TIS), and no incident of cracking in these straps has ever occurred according to information provided by the Fort Worth Airplane Certification Office. Ameriflight believes that the FAA has not conclusively demonstrated the unsafe condition—the cracking of the straps; and, even if there is justification, the 50-hour TIS repetitive inspection interval is too stringent. The FAA does not concur that the strap inspection is unjustified. Based on FAA and Fairchild analysis, loads are shifted to other structures such as the straps when the upper wing skin cracks. Even though the strap carries more load, a crack will not necessarily immediately develop, but may initiate and then propagate slowly (fatigue) because of the additional load in this structural area. For these reasons, the FAA has determined that the strap inspection is needed, but at intervals of 150 hours TIS instead of 50 hours TIS. The proposal has been changed accordingly.

Another commenter, Fairchild Aircraft, recommends the following changes to the proposal:

- Change the report of "repeated bending of the wing during service" that is contained in the preamble to "reports of wing skin cracking because of repeated bending of the wing during service". The FAA concurs, and has changed the proposal accordingly;
- Change the reference of the inspection area for cracks in the proposal from "the lower edge of the nacelle and battery box" to "the top aft outboard corner of the battery box". The FAA concurs and has revised paragraphs (a) and (b)(1) of the proposal accordingly;
- Incorporate Fairchild SB 226–57–018, Issued: January 28, 1993, Revised: October 25, 1993 (pages 1 through 3) into the proposal. The FAA concurs and has revised the AD accordingly. This service information revision only includes editorial corrections and does not impose any additional burden of U.S. operators of the affected airplanes; and
- Include additional Approved Repair Procedure (ARP) and Limited Approved Repair (LAR) documents and make provisions for the inclusion of future LAR's and ARP's that may be issued. The FAA concurs and has revised NOTE 2 of the proposal as follows: "Certain Limited Approve Repair (LAR) and Approved Repair Procedure (ARP) documents issued by Fairchild Aircraft specify procedures for accomplishing the same modification referenced in paragraphs (b)(2), (c)(1)(ii), and (c)(2)(ii). Check with the Fort Worth Airplane Certification Office at the address presented in paragraph (e) of this AD to find out which LAR's and ARP's are considered "unless already accomplished" as they relate to this AD."

A third commenter states that the FAA incorrectly estimates the cost impact that the proposed AD would have on U.S. operators of the affected airplanes. This commenter explains that the FAA's cost analysis figure of $42,680 for the entire fleet does not take into account (1) the cost of repetitive inspections; (2) the cost of dye penetrant inspections when the wing skin is found cracked; nor (3) the cost of incorporating the inspection-terminating modification. The FAA concurs that this figure is based only on a one-time visual inspection of the wing skin, as was explained in the cost analysis section of the proposal. The FAA has no way of determining how many airplanes would have cracked wing skins, or how many repetitive inspections each affected airplane would incur. The cost of the modification is extremely labor intensive (100 workhours), a reason why the FAA determined to make it optional until a crack is found in the spar straps. The proposal is unchanged as a result of this comment.

This same commenter states that the modification referenced in the service bulletins is "extreme overkill" because the amount and locations of rivets that require removal creates a potential for additional damage and weakening of the area. The FAA does not concur. Fairchild Aircraft and many operators have already accomplished this modification and the FAA has received no reports of weakening or damage occurring in the affected area. The proposed AD is unchanged as a result of this comment.

After careful review of all available information including the comments referenced above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the wording changes described above, the incorporation of the revised service information, and minor editorial corrections. The FAA has determined that these minor changes and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 776 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the required visual inspection of the wing skin on both wings, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,680. This figure does not include the cost of any dye penetrant inspections of the spar strap that could be required if the wing skin is found cracked, nor does it include the cost of the wing skin modification or the repetitive inspections. The optional modification would terminate the need for the repetitive inspection

requirement. The figure above is based upon the assumption that no affected airplane owner/operator has accomplished this inspection-terminating modification.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new AD to read as follows:

**94-07-10 Fairchild Aircraft:** Amendment 39-8868; Docket No. 93-CE-21-AD.

*Applicability:* The following model and serial number airplanes, certificated in any category:

| Model | Serial Nos. |
|---|---|
| SA226-T | T201 through T275, and T277 through T291. |
| SA226-T(B) | T(B)276, and T(B)292 through T(B)417. |
| SA226-AT | AT001 through AT074. |
| SA226-TC | TC201 through TC419. |
| SA227-TT | TT421 through TT541. |
| SA227-AT | AT423 through AT631, and AT695. |
| SA227-AC | AC406, AC415, AC416, and AC420 through AC789. |
| SA227-BC | BC420 through BC789. |
| SA227-CC | CC784, and CC790 through CC822. |
| SA227-DC | DC784, and DC790 through DC822. |

*Compliance:* Required initially upon the accumulation of 2,500 hours time-in-service (TIS) or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter as indicated in the body of the AD.

To prevent failure of the wing skin at the top aft outboard corner of the battery box, which could result in structural damage to the wing, accomplish the following:

**Note 1:** The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Visually inspect the right and left upper skin by the top aft outboard corner of the battery box for cracks in accordance with Figure 1 and the Accomplishment Instructions, A. Inspection, section of whichever of the following is applicable: (1) Fairchild Service Bulletin (SB) 226-57-018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12) and Revised: October 25, 1993 (pages 1 through 3);

(2) Fairchild SB 227-57-005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or

(3) Fairchild Aircraft SB CC7-57-002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12).

(b) If cracks are not found during the visual inspection required by paragraph (a) of this AD, within 500 hours TIS after this initial visual inspection, accomplish one of the following: (1) Reinspect the right and left upper wing skin by the top aft outboard corner of the battery box for cracks in accordance with Figure 1 and the Accomplishment Instructions, A. Inspection, section of the applicable service information presented in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, and reinspect thereafter at intervals not to exceed 500 hours TIS; or

(2) Modify the upper wing skin in accordance with the Accomplishment Instructions, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification terminates the repetitive visual inspections that are specified in paragraph (b)(1) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

(c) If cracks are found during the inspection required by paragraph (a) of this AD, prior to further flight, dye penetrant inspect the 27-31130 straps in accordance with the Accomplishment Instructions, B. Removal section, paragraph (7), of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) If cracks are found in either of the 27-31130 straps during the inspection required by paragraph (c) of this AD, prior to further flight, accomplish the following: (i) Repair the 27-31130 strap in accordance with a scheme obtained from the manufacturer through the Fort Worth Airplane Certification Office at the address specified in paragraph (d) of this AD; and

(ii) Modify the upper wing skin in accordance with the Accomplishment Instructions, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(2) If no cracks are found in either of the 27-31130 straps, within 150 hours TIS after the initial dye penetrant inspection required by paragraph (c) of this AD, accomplish one of the following

(i) Reinspect (dye penetrant) the edges of the spar straps (27-31130) in the wheel wells for cracks in accordance with the Accomplishment Instructions, B. Removal, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable, and if no cracks are found, continue to reinspect at intervals not to exceed 150 hours TIS; or

(ii) Modify the upper wing skin in accordance with the Accomplishment Instructions, B. Removal and C. Installation, section of the service information referenced in paragraphs (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Accomplishing this modification terminates the repetitive dye penetrant inspections that are specified in paragraph (c)(2)(i) of this AD, and the modification may be accomplished at any time to eliminate this repetitive inspection requirement.

**Note 2:** Certain Limited Approve Repair (LAR) and Approved Repair Procedure (ARP) documents issued by Fairchild Aircraft specify procedures for accomplishing the same modification referenced in paragraphs (b)(2), (c)(1)(ii), and (c)(2)(ii). Check with the Fort Worth Airplane Certification Office at the address presented in paragraph (e) of this AD to find out which LAR's and ARP's are considered "unless already accomplished" as they relate to this AD.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA,

2601 Meacham Boulevard, Fort Worth, Texas 76137–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(f) The inspections and modification required by this AD shall be done in accordance with Fairchild Service Bulletin 226–57–018, Issued: January 28, 1993, Revised: June 3, 1993 (pages 4 through 11 and 13 through 15), Revised: July 1, 1993 (page 12), and Revised: October 25, 1993 (pages 1 through 3); Fairchild Service Bulletin 227–57–005, Issued: December 21, 1992, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12); or Fairchild Aircraft Service Bulletin CC7–57–002, Issued: January 28, 1993, Revised: June 3, 1993 (pages 2 through 11 and 13 through 15), and Revised: July 1, 1993 (pages 1 and 12). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment (39–8868) becomes effective on May 27, 1994.

Issued in Kansas City, Missouri, on March 24, 1994.

**Bobby W. Sexton,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 94–7616 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–13–U

## 14 CFR Part 39

**[Docket No. 91–CE–88–AD; Amendment 39–8819; AD 94–04–01]**

## Airworthiness Directives: de Havilland DHC–6 Series Airplanes; Correction

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** This action makes a correction to Airworthiness Directive (AD) 94–04–01 concerning de Havilland DHC–6 series airplanes, which was published in the **Federal Register** on February 10, 1994 (59 FR 6216). That publication incorrectly references replacement front steel adapter fittings as part number (P/N) C6WM1163–4 instead of P/N C6WM1162–4 in paragraphs (b) and (c) of the AD. This action changes the AD to correctly identify the part numbers of these front wing steel adapter fittings.

**EFFECTIVE DATE:** March 31, 1994.

**FOR FURTHER INFORMATION CONTACT:** Jon Hjelm, Aerospace Engineer, FAA, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6220.

**SUPPLEMENTARY INFORMATION:** On February 3, 1994, the Federal Aviation Administration (FAA) issued AD 94–04–01, Amendment 39–8819 (59 FR 6216), which applies to de Havilland DHC–6 series airplanes. This AD requires repetitively inspecting wing attachment fittings, and eventually installing new steel adapter fittings as terminating action for those repetitive inspections. The AD incorrectly references replacement front steel adapter fitting part numbers.

### Need for Correction

As published, the final regulations incorrectly reference replacement front steel adapter fittings as P/N C6WM1163–4 instead of P/N C6WM1162–4 in paragraphs (b) and (c) of the AD 94–04–01. This could cause confusion when obtaining the proper parts to incorporate the required modification.

### Correction of Publication

Accordingly, the publication of February 10, 1994 (59 FR 6216) of Amendment 39–8819, AD 94–04–01, which was the subject of FR Doc. 94–3048, is corrected as follows:

**§ 39.13 [Corrected]**

On page 6216, in the third column, in § 39.13, in the fifth line of paragraph (b) of AD 94–04–01, replace:

"3 and C6WM1163–4 in accordance with the"

with:

"3 and C6WM1162–4 in accordance with the"

On page 6217, in the first column, in § 39.13, in the seventh line of paragraph (c) of AD 94–04–01, replace:

"N C6WM1162–3 and C6WM1163–4, in"

with:

"N C6WM1162–3 and C6WM1162–4, in"

Issued in Kansas City, Missouri, on March 28, 1994.

**Barry D. Clements,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 94–7787 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–13–U

## 14 CFR Part 93

**[Docket No. 27664]**

## Study of the High Density Rule

**AGENCY:** Federal Aviation Administration [FAA], DOT.

**ACTION:** Notice of study and request for comments.

**SUMMARY:** On January 6, 1994, the Administration announced its Civil Aviation Initiative to Promote a Strong Competitive Aviation Industry. In it the Department of Transportation (DOT) noted that it had begun a comprehensive examination of the High Density Traffic Airports Rule (HDR) to assess its viability as an efficient air traffic and delay management tool and to determine whether certain operating limitations imposed by the rule could be eliminated or modified. The study is expected to be completed by November 1994. This notice requests comments from the public on the effectiveness and viability of the HDR and any potential alternatives to the rule. If the results of the study suggest changes to the HDR, those changes would be proposed through the regulatory process, pursuant to the Administrative Procedure Act. Changes affecting the number of instrument flight rule takeoffs and landings authorized for air carriers for Washington National Airport would require a legislative change since they are imposed by statute.

**DATES:** Comments must be received on or before May 27, 1994.

**ADDRESSES:** Send or deliver comments in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 27664, 800 Independence Avenue, SW., Washington, DC 20591. Comments must be marked Docket No. 27664. Comments may be examined in Room 915G weekdays between 8:30 am and 5 pm, except on Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Barry, APO–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone no. 202–267–3305.

**SUPPLEMENTARY INFORMATION:**

### Background

The HDR (14 CFR part 93, subpart K) was adopted in 1969 as a temporary measure to reduce delays at five congested airports: JFK International, LaGuardia, Newark International, O'Hare International, and Washington National. Total hourly limits on the number of operations, or operating "slots", were imposed at each airport

during certain hours of the day. For each airport the hourly total was divided into three operator categories: air carrier, commuter (originally air taxi), and "other," which consists primarily of general aviation and charters. The limits were based on the Engineering Performance Standards, or EPS, which are a method for determining the Instrument Flight Rules (IFR) operating capacity of an airport.

All limitations for Newark Airport were removed from the HDR in the early 1970's. The limits were made permanent at the four other airports in 1973 and have remained in effect in some form since 1969. Between 1981 and 1984, the HDR was superseded by the Interim Operations Plan adopted in response to the air traffic controllers' strike. (SFAR 44). All SFAR 44 limitations were lifted, and the HDR limits reinstated, by the "Interim Final Rule" issued in March 1984. (49 FR 8237, March 6, 1984). At Washington National Airport, slots are further limited by statute.

The hour and category limits in the HDR are enforced by a regulatory requirement to have an ATC reservation for a takeoff or landing at a high density airport during restricted hours. Air carrier and commuter reservations are considered slots, which are continuing reservations at the same time each day. "Other" category reservations are allocated on an ad hoc basis for individual operations, using a first-come first-served reservation system. Reservations are available up to 48 hours in advance of the time of operation, by calling a voice-activated computer system maintained by the FAA Air Traffic Control System Command Center.

### The Study

The study now being conducted by the DOT will include: An examination of the current air traffic environment at each of the four high density airports (including, but not limited to, the economic, environmental, competitive, and logistical aspects of the rule); the projected air traffic environment; and the relationship of and integration with the current HDR. The study will also examine the process for allocating domestic and international slots, access for small communities, and potential alternatives to the current regulatory scheme at the HDR airports. The requirements of each of the four airports will be reviewed separately but each airport's relation to the national air traffic system will be considered. Any changes to the HDR will be subject to the separate process required by the Administrative Procedure Act, and, in the case of Washington National, would require a statutory change.

### Comments Invited

Interested parties are invited to participate in this study of the HDR by submitting such written data, views, or arguments as they may desire. Comments that provide a factual basis supporting views and suggestions presented are particularly helpful in developing reasoned alternatives or responses to the HDR. Comments are specifically invited on the overall regulatory, economic, environmental, competitive, and energy-related aspects of the HDR and of potential alternatives. Communications should identify the docket number and be submitted in triplicate to the address listed above. Comments should not be sent or directed to any of the contractors that have been engaged by the FAA to provide information for the study of the HDR.

All comments received on or before the closing date for comments will be considered. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments.

Signed in Washington on March 28, 1994.

**Dale E. McDaniel,**

*Acting Assistant Administrator for Policy, Planning and International Aviation.*

[FR Doc. 94–7915 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 141

**[Docket No. RM93–10–002; Order No. 558–B]**

## New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities Under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC–714

Issued March 24, 1994.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission is modifying its reporting requirement, FERC Form No. 715, Annual Transmission Planning and Evaluation Report, to remove the requirement that respondents submit to the Commission an original and two copies in hard copy of base case power flow data. The Commission has determined this requirement is unnecessary since the data are filed in electronic form.

**DATES:** The final rule is effective March 24, 1994.

**ADDRESSES:** Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

**FOR FURTHER INFORMATION CONTACT:**

Daniel L. Larcamp (Legal Information), Assistant General Counsel, Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2088.

William Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0849.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, at 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of the Final Rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

### I. Introduction

In its final rule in this proceeding,[1] the Commission, among other things, amended Part 141 of its regulations by

[1] New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities under the Energy Policy Act of 1992 and Conforming and Other Changes to Form No. FERC–714, 58 FR 52420 (October 8, 1993), III FERC Stats & Regs. ¶ 30,980 (1993).

adding a new § 141.300, requiring that "transmitting utilities" [2] inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints as required under section 213(b) of the Federal Power Act (FPA).[3] This new regulation created a new reporting form, FERC Form No. 715, Annual Transmission Planning and Evaluation Report (Form 715). The purpose of the Commission's final rule was to implement the requirements of section 213(b) and to support the Commission's expanded responsibilities under sections 211 and 212 of the FPA, as amended by the Energy Policy Act, as well as to provide information with which to analyze filings involving, or requests for, transmission services.

Part 2 of Form 715 requires each transmitting utility that operates integrated transmission system facilities rated at or above 100 kilovolts (kV) (Respondent) to annually submit to the Commission an original and two copies in hard copy of its base case power flow data, as well as to submit the data to the Commission in electronic form.[4] The Commission also provided that Respondents that participate in the development and use of regional power flow studies could designate any regional or subregional organization, or any other single entity to submit their regional or subregional base case power flow data.

On January 25, January 31, February 22, February 23, and March 10, 1994, respectively, the Mid-America Interconnected Network (MAIN), Florida Electric Coordinating Group, Inc. (Florida), Southwest Power Pool, Inc. (SPP), the Southeast Electric Reliability Council (SERC), and the East Central Area Reliability Agreement (ECAR) filed requests for waiver of the requirement that they file base case power flow data in hard copy format. MAIN, SERC and ECAR are regional reliability councils. MAIN's members' service territory covers Illinois, Missouri and eastern Wisconsin. SERC's members provide electric service to customers in all or parts of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. ECAR's member systems serve customers in Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. Florida represents the Florida Subregion of SERC.

MAIN, states that it would have to submit about 600 pounds of paper on behalf of its members if the Commission requires the submission of base case power flow data in hard copy format. ECAR calculates that submission of base case power flow data for its members in hard copy format would result in submittal of about 400 pounds of paper, standing about 33 feet high. MAIN, Florida, SPP, SERC and ECAR all submit that the filing of base case power flow data in hard copy format is unnecessary in light of the requirement to file these data with the Commission in electronic form.

Upon reflection, the Commission has concluded that it does not need to require routine submission of hard copy of the power flow data. Base case power flow data are intended for use with commonly available computer programs to simulate load flows on the Respondent's system and to provide a preliminary determination of whether the system has sufficient capacity to accommodate a request for transmission service. Electronic format is the most efficient method for reporting and using base case power flow information; the requirement to provide hard copy of this information results in the unnecessary filing of voluminous amounts of paper. The hard copy format is especially unwieldy, because a person wishing to use the data typically must first transfer the data from hard copy format into electronic format before performing computer analysis of potential load flow situations. Accordingly, the Commission has decided to eliminate the requirement that Respondents submit to the Commission an original and two copies in hard copy of base case power flow data. Respondents must still submit base case power flow data to the Commission in electronic form, and will continue to be responsible for submitting base case power flow data to the public both in hard copy and in electronic form upon request.

To effect this change, the Commission is restating its summary of Form 715 requirements and amending its previous filing provisions governing submission of that form to the Commission. The Commission is also amending Appendix A (page 4, Part III), which it issued with its previous final rule, and which contains instructions for the filing of Form 715.[5] Elimination of the requirement to file base case power flow data in hard copy format moots MAIN's, Florida's, SPP's, ECAR's and SERC's requests for waiver and renders future requests for waiver of this requirement unnecessary.

## II. Summary of Form 715 Requirements [6]

Starting on April 1, 1994, each transmitting utility that operates integrated transmission system facilities that are rated at or above 100 kilovolts (kV) (Respondent), must annually submit to the Commission a new reporting form, Form 715.

Form 715 requires each Respondent to:

(1) Identify a contact person for inquiries regarding information in the form [Form 715, part 1];

(2) Submit in electronic form its base case power flow data if it does not participate in the development and use of regional power flow data. A Respondent that participates in the development and use of regional power flow studies must either submit in electronic form the regional or subregional base case power flow data or designate any regional or subregional organization, or any other single entity to submit in electronic form the regional or subregional base case power flow data [Form 715, part 2];

(3) Submit transmission system maps and diagrams used by the Respondent for transmission planning [Form 715, part 3];

(4) Submit a detailed description of the transmission planning reliability criteria used to evaluate system performance for time frames and planning horizons used in regional and corporate planning [Form 715, part 4];

(5) Submit a detailed description of the Respondent's transmission planning assessment practices (including, but not limited to, how reliability criteria are applied and the steps taken in performing transmission planning studies) [Form 715, part 5]; and

(6) Submit a detailed evaluation of the Respondent's anticipated system performance as measured against its stated reliability criteria using its stated assessment practices [Form 715, part 6].

Respondents must submit to the Commission an original and two copies in hard copy of the above items 1, 3, 4,

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[2] A transmitting utility is any electric utility (*i.e.*, any person or State agency (including any municipality) which sells electric energy), qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency that owns or operates electric power transmission facilities that are used for the sale of electric energy at wholesale. See 16 U.S.C. 796(23) (1988).

[3] 16 U.S.C. A. 824*l* (West Supp. 1993).

[4] Base case power flows are best estimate simulations of the operations of regional transmission grids.

[5] Because 18 CFR 141.300(c) merely references Form 715, which does not appear in the Code of Federal Regulations, there will be no change to 18 CFR 141.300. The only change will be in the appendix, which does not appear in the Code of Federal Regulations.

[6] The revised instructions for submitting Form 715 appear in the appendix.

5 and 6. Respondents must also submit to the Commission in electronic form items 1, 2, 4, 5 and 6.

Respondents must also make available expeditiously to the public, upon request, in hard copy, the above items 1 through 6. Respondents must also make available expeditiously to the public, upon request, in electronic form, items 1, 2, 4, 5 and 6.

When Respondents have designated any single entity to submit regional or subregional base case power flow data to the Commission, that entity must submit these data to the Commission, as indicated immediately above. That entity must also make these data available expeditiously to the public, upon request, in both hard copy and electronic form, as indicated immediately above.

The primary authority for the collection of Form 715 data is section 213(b) of the FPA. The collection of these data also supports the Commission's expanded responsibilities under sections 211, 212 and 213(a) of the FPA (as amended by the Energy Policy Act), and assists in rate or other regulatory proceedings. Thus, the Commission's authority for this rule is also based on the Commission's general authorities under sections 307(a), 309 and 311 of the FPA.

### III. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[7] require that OMB approve certain information collection requirements imposed by the agency's rule. However, this order contains no new information collection requirements; it instead eliminates the potential filing of voluminous amounts of paper. Therefore, this final rule is not subject to OMB approval.

### IV. Regulatory Flexibility Act

In issuing its previous final rule, the Commission thoroughly considered and responded to the needs of small entities. Most small entities will either be exempt from the final rule or will be eligible for a waiver from its requirements; the final rule only covers the operators of integrated transmission system facilities of 100 kV and above. Because: (a) Most transmission utilities that operate integrated transmission system facilities of 100 kV and above do not fall within the definition of "small entity;"[8] (b) the previous final rule accommodated the economic concerns of small entities; and (c) the current final rule only further reduces reporting requirements by eliminating the necessity to file certain information in hard copy with the Commission, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### V. Environmental Statement

Commission regulations require that the Commission prepare an environmental assessment or an environmental impact statement for any Commission action that may have a significant adverse effect on the human environment.[9] The Commission categorically excludes certain actions from this requirement as not having a significant effect on the human environment.[10] No environmental consideration is necessary for the promulgation of a rule that involves the gathering, analysis and dissemination of information.[11] Because this final rule involves only the gathering, analysis and dissemination of information, no environmental consideration is necessary.

### VI. Administrative Findings and Effective Date

The Administrative Procedure Act (APA)[12] requires that the Commission publish rulemakings in the **Federal Register**. The APA also mandates that the Commission provide an opportunity for comment when it promulgates regulations. However, the APA does not require notice and comment when the agency for good cause finds that notice and comment is impractical, unnecessary or contrary to the public interest.[13] The Commission finds that notice and comment are unnecessary for this rulemaking. The Commission is merely eliminating an unnecessary filing requirement that will remove an administrative burden from the public without changing the substantive effect of a previously published rule.

The Commission also finds good cause to make this rule effective immediately. The filing deadline for Form 715 is April 1, 1994; unless the rule becomes effective immediately, the Commission will receive voluminous paper that it does not need. Making this rule effective immediately will ensure that Respondents will not have to fulfill an unnecessary obligation.

### List of Subjects in 18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

By the Commission.

**Lois D. Cashell,**

*Secretary.*

In consideration of the foregoing, the Commission amends the filing requirements for Form 715 as set forth below and which are referenced in 18 CFR 141.300(c).

## PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:

**Authority:** 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. The instructions for submitting Form 715 are revised as set forth in the Appendix.

**Note:** The appendix will not appear in the Code of Federal Regulations.

### Appendix—Annual Transmission Planning and Evaluation Report FERC Form No. 715

Form Approved
OMB No. 1902–0167
Expires: 12/31/96

This report is mandatory under sections 213(b), 307(a) and 311 of the Federal Power Act and Volume 18 CFR 141.300.

The Commission does not consider the information collected by this report to be confidential and will not treat it as such.

* * * * *

### III. Where to Submit

Submit one original and two copies in hard copy of FERC Form No. 715, Annual Transmission Planning and Evaluation Report (except Part 2: Base Case Power Flows), and one copy in electronic form of FERC Form No. 715, Annual Transmission Planning and Evaluation Report (except Part 3: Transmitting Utility Maps and Diagrams), to: Office of Electric Power Regulation, Federal Energy Regulatory Commission, Room 2410, ER–10.1, 825 North Capitol Street NE., Washington, DC 20426.

* * * * *

[FR Doc. 94–7757 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–P

[7] 5 CFR 1320.14.

[8] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines a "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation.

[9] Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[10] 18 CFR 380.4.

[11] 18 CFR 380.4(a)(5).

[12] 5 U.S.C. 553–59.

[13] 5 U.S.C. § 553b(B).

**18 CFR Parts 161 and 250**

**[Docket No. RM87–5–015; Order No. 497–F]**

## Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines; Order Denying Rehearing and Granting Clarification

Issued March 24, 1994.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; order denying rehearing and granting clarification.

**SUMMARY:** On December 23, 1993, in response to a number of requests for rehearing, the Commission issued Order No. 497–E, an order on rehearing of the Commission's order on remand of the court's decision in *Tenneco Gas* v. *Federal Energy Regulatory Commission*. On January 21, 1994, Florida Gas Transmission Company (FGT) filed a request for rehearing of Order No. 497–E.

This order denies FGT's request for rehearing that Order No. 497–E only requires contemporaneous disclosure under Standard F when transportation information is conveyed by a pipeline to an operating employee of the marketing affiliate and only requires application of Standard E to an operating employee of the marketing affiliate. This order also grants FGT's request for clarification that certain types of field personnel, such as mechanics and technicians, who merely act at the direction of others and who are normally not likely to receive information covered under the rule, would not be considered operating personnel.

**EFFECTIVE DATE:** The final rule in this proceeding was effective January 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–1275.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this rule will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

### I. Background

On December 4, 1992, the Commission issued Order No. 497–D[1] in response to the opinion issued by the United States Court of Appeals for the District of Columbia Circuit in *Tenneco Gas* v. *Federal Energy Regulatory Commission (Tenneco)*[2] which upheld in substantial part Order Nos. 497 and 497–A,[3] the Commission's final rule governing the relationship between interstate natural gas pipelines and their marketing or brokering affiliates. On December 23, 1993, in response to a number of requests for rehearing, the Commission issued Order No. 497–E,[4] an order on rehearing of Order No. 497–D.

Order No. 497–E: (1) Deleted the remaining categories of gas sales and marketing information from the contemporaneous disclosure requirement; (2) affirmed the Commission's decision to eliminate the filing of Form 592; (3) affirmed the Commission's decision that Ozark Gas Transmission System is subject to Order No. 497; (4) rejected Hadson Gas Systems, Inc.'s argument that the Commission's procedures for acting on §§ section 161.3(j) and 284.286(e) filings prohibit public participation; (5) required all future standards of conduct filings made under § 161.3(j) and all requests for waiver of the standards to include form notices suitable for publishing in the Federal Register; (6) clarified what type of employee is an "operating employee" for purposes of the Order No. 497 regulations; and (7) extended the sunset date of Order No. 497's reporting requirements until June 30, 1994, because concurrently with the order the Commission issued a notice of proposed rulemaking (NOPR) in Docket No. RM94–6–000 which proposed to revise Order No. 497's reporting requirements.

On January 21, 1994, Florida Gas Transmission Company (FGT) filed a request for rehearing of Order No. 497–E. FGT's request is addressed below.

### II. Discussion

#### *A. The Scope of Standards E and F*

1. Request for Rehearing

In its December 16, 1993 order[5] in FGT's restructuring proceeding, the Commission required FGT to eliminate the term "operating" from Standards E and F in FGT's Standards of Conduct Procedures. FGT had revised its Order No. 497 standards of conduct to limit the applicability of Standards E and F to "operating employees."[6] FGT states that it filed for rehearing of the December 16 order because it believes that the order is contrary to Order No. 497–E, and is using the December 16 restructuring order as a basis for seeking rehearing here of Order No. 497–E.

FGT claims that because of the December 16 order, communication of information related to transportation of natural gas from, for example, a filing clerk working for the pipeline to a filing clerk working for the marketing affiliate triggers contemporaneous disclosure under Standard F, even though the information has not been communicated to any operating employee of the marketing affiliate that could take action on that information in a manner that might benefit the marketing affiliate in the manner addressed in Order No. 497, *et seq.* Likewise, FGT states that a shared clerk in possession of such transportation-related information

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[1] 57 FR 58978 (December 14, 1992), III FERC Stats. & Regs. ¶ 30,958 (1992).

[2] 969 F.2d 1187 (D.C. Cir. 1992).

[3] Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines, Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,820 (1988), *order on rehearing*, Order No. 497–A, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,868 (1989), *order extending sunset date*, Order No. 497–B, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,908 (1990), *order extending sunset date and amending final rule*, Order No. 497–C, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs ¶ 30,934 (1991), *reh'g denied*, 57 FR 5815, 58 FERC ¶ 61,139 (1992), *aff'd in part and remanded in part*, *Tenneco Gas* v. *Federal Energy Regulatory Commission*, 969 F.2d 1187 (D.C. Cir. 1992).

[4] 59 FR 243 (January 4, 1994), III FERC Stats. and Regs. ¶ 30,987 (1993).

[5] 65 FERC ¶ 61,338 (1993).

[6] Standard E of the Commission's Standards of Conduct for pipelines with marketing affiliates provides that the pipeline "may not disclose to its affiliate" certain specified information. 18 CFR 161.3(e). Standard F provides that a pipeline must contemporaneously provide to all potential shippers on its system certain specified information to the extent it provides that information "to a marketing affiliate." 18 CFR 161.3(f). FGT's Standard E was changed to prohibit disclosure of the information to operating personnel of FGT's marketing affiliate; Standard F, to limit its scope to information provided to operating personnel of FGT's affiliate.

covered by the rule would trigger the contemporaneous disclosure requirement under Standard F. FGT states that this would occur even though there has been no communication to an operating employee of the marketing affiliate with authority to take action on such information in a manner that might benefit the marketing affiliate with respect to transportation. Likewise, FGT asserts that under its interpretation of Order No. 497–E, the contemporaneous disclosure requirement under Standard F would not be triggered unless and until the shared clerk passed on the information to an operating employee of the marketing affiliate. FGT submits that if the Commission adopted such an interpretation, any uncertainty that was created by the December 16 order would be removed.

FGT argues that there has never been an issue with respect to support personnel under Order No. 497 and Commission precedent interpreting Order No. 497. FGT contends that the contemporaneous disclosure rule can only be logically implemented when a support person, whether an employee solely of the pipeline or a shared employee of both, actually passes information to an operating employee of the marketing affiliate. FGT states that in Order No. 497, the Commission recognized that the potential for abuse exists because the pipelines could have an economic incentive to favor marketing affiliates during transportation transactions. FGT asserts that no potential for abuse can occur unless information is passed to a marketing affiliate's operating employee regardless of who it comes from. Accordingly, FGT requests clarification, or, in the alternative, rehearing, that Order No. 497–E requires contemporaneous disclosure under Standard F only when information is conveyed by the pipeline to an operating employee of the marketing affiliate, and requires application of Standard E to prohibit disclosure only to an operating employee of the marketing affiliate.

2. Commission Ruling

The Commission denies FGT's request. The problem with FGT's argument is that it takes Commission statements that separation of support personnel "to the maximum extent practicable" is sufficient to prevent the abuses at which the marketing affiliates rule is aimed, and inappropriately applies those statements to Standards E and F. Contrary to FGT's assertions, Standards E and F are not limited in their scope to operating employees only. First, on their face, Standards E and F are different from Standard G because they do not specifically refer to operating employees. Standard E states that a pipeline "may not disclose to its affiliate any information the pipeline receives from a nonaffiliated shipper or potential nonaffiliated shipper."[7] Standard F states that "[t]o the extent it provides to a marketing affiliate information related to transportation of natural gas, [a pipeline] must provide that information contemporaneously to all potential shippers, affiliated and nonaffiliated, on its system."[8] On the other hand, Standard G states that [t]o the maximum extent practicable [a pipeline's] operating employees and the operating employees of its marketing affiliate must function independently of each other."[9]

Second, in Order No. 497–A, the Commission recognized that the contemporaneous disclosure requirement of Standard F was broader in scope than the independent functioning requirement of Standard G and was designed to supplement the independent functioning standard. With respect to the contemporaneous disclosure requirement of Standard F, the Commission, in clarifying that information received by employees shared by a pipeline and its marketing affiliated would be imputed to both, stated "[a]t the outset, the Commission has concluded that this standard of conduct applies with respect to any employee or officer that is shared by the pipeline and its marketing affiliate." (Emphasis added)[10] In recognizing the relationship between Standards F and G, the Commission stated "organizational separation of a pipeline and its marketing affiliate 'to the maximum extent practicable' is necessary to ensure against affiliate preference and the discriminatory dissemination of information."[11] The Commission then went on to state

As a practical matter, the contemporaneous disclosure requirement for information received by a shared employee or officer (discussed above) provides a strong disincentive for a pipeline and its marketing affiliate to share officers or employees. For pipelines that continue to share employees or officers with their marketing affiliate, the contemporaneous disclosure requirement will allow the public to monitor a pipeline's adherence to this standard [*i.e.*, Standard G] and will enable the Commission to enforce this requirement [*i.e.*, the independent functioning of operating employees].[12]

Thus, by stating that the contemporaneous disclosure requirement was a strong disincentive for the sharing of employees, the Commission recognized that such a requirement was, in fact, a much broader requirement than the independent functioning requirement, and would make pipelines adhere more closely to the independent functioning standard.

Third, in *Tenneco* v. *FERC*,[13] in the face of arguments that the contemporaneous disclosure requirement was a "sweeping, draconian ban," the court upheld Standard F to the extent that it regulated the exchange of transportation information. The court found that Standard F "reflects a reasonable effort to promote a competitive market without significantly harming existing efficiencies."[14] In addition, the court also answered arguments of petitioners asserting an inconsistency between Standard E, the confidentiality standard, and Standard F, the contemporaneous disclosure standard, and the sharing of any operating personnel by a pipeline and its affiliate because, for example, shared employees will necessarily by imputation disclose all information they receive from nonaffiliated shippers. The court stated that the Commission concluded that there were means of achieving compliance with the confidentiality standard that are consistent with the sharing of some personnel. For example, the processing of transportation requests could be segmented or requests could be identified solely by number rather than by name. The court thus found that it was "not illogical or internally inconsistent for a regulatory scheme to preclude a pipeline from divulging to its affiliate certain kinds of information at the same time it permits, in certain cases and under certain supervisory conditions, the sharing of some personnel."[15]

Nor does Order No. 497–E support FGT's request. Order No. 497–E stated: "To the extent a non-operating person obtains such [transportation] information and provides it to the marketing affiliate, the pipeline would be required to disclose the information contemporaneously pursuant to

[7] 18 CFR 161.3(e).

[8] 18 CFR 161.3(f), as amended by Order No. 497–E.

[9] 18 CFR 161.3(g).

[10] FERC Stats. & Regs. [Regulations Preambles 1986–1990] ¶ 30,868 at 31,595 (1989).

[11] Order No. 497–A at 31,598.

[12] *Id.*

[13] 969 F.2d 1187 (D.C. Cir. 1992).

[14] *Id.* at 1199.

[15] *Id.* at 1208.

Standard F."[16] Contrary to FGT's claim, that language does not state that the marketing affiliate recipient need be an "operating" employee to trigger Standard F. Receipt of the information by any marketing affiliate employee triggers Standard F.[17] Further, FGT has not given any reason why a member of the support staff of the marketing affiliate, or a shared employee who is a member of the support staff, for example a filing clerk or telephone operator, should receive information related to transportation. Information is generally not conveyed without a purpose relating to the reason a business is in existence. Thus, the Commission believes it is appropriate to impute the information conveyed to the support staff person to an operating employee of the marketing affiliate. There simply is no appropriate reason for a support staff person to have access to the information, or have it in his or her possession, unless it is to be imputed to an operating employee. Any information conveyed is therefore subject to disclosure under the marketing affiliate rule.

FGT also cites the language in *East Tennessee Natural Gas Company,* which stated that "to the extent that an operating employee of a separated sales entity receives information concerning transportation matters covered by Standard F * * * the pipeline must disclose that information on its electronic bulletin board (EBB) to comply with Standard F."[18] That example was not meant to be exclusive, but was just an illustration of action that would trigger Standard F.

Finally, FGT argues that the Commission approved its February 2, 1990 standards of conduct which contained operating employee limitations in Standards E and F,[19] and that the Commission is now imposing a stricter standard on it than it has imposed on other pipelines. This is not the case. We have reviewed the standards of conduct of the pipelines subject to Order Nos. 497 *et al.,* and only FGT and its pipeline affiliates limited Standards E and F to operating employees.[20] Our earlier review of the standards of conduct filed by Black Marlin, Northern Natural and Transwestern did not identify those restrictions and we erroneously approved their standards.[21] In light of the preceding discussion as to the scope of Standards E and F, within 30 days of the issuance of this order, Black Marlin, Northern Natural and Transwestern each must show cause in its respective MG docket why it should not be required to remove the operating employee restrictions from its Standards E and F.[22]

By denying FGT's request for rehearing of Order No. 497–E, the Commission is sustaining its December 16 restructuring order requiring FGT to remove the word "operating" from its Standards E and F.

*B. Definition of Operating Employee*

1. Request for Rehearing

FGT points out that in Order No. 497–E the Commission defined "operating employee" as:

> [A]n individual who has day-to-day duties and responsibilities for planning, directing, organizing, or carrying out gas-related operations, including gas transportation, gas sales or gas marketing activities.[23]

The clarification that FGT seeks pertains to the phrase "carrying out" in the Commission's definition of "operating employee." In determining who qualifies as an "operating employee," FGT assumes that one must view the definition stated in Order No. 497–E in the context of the abuse targeted by the Commission when it promulgated Order No. 497. For example, FGT assumes that field personnel who perform duties such as maintenance of equipment, operation of compressors, procurement of materials, operation of valves at the instruction of gas control personnel, adjustment of gas flow, connection of wells, equipment service, installation of certain facilities, including meter runs and taps, and meter reading and testing, would clearly not fall within the Commission's definition of "operating employee." FGT states that such persons include measurement technicians, corrosion technicians, maintenance persons, mechanics, and electric and instrument technicians and their supervisors. FGT asserts that these types of field personnel are simply not the types of employees that have the ability or authority to benefit the marketing affiliate vis-a-vis other shippers and sellers of gas in the transportation of gas. FGT submits that such personnel are utilized for the safe and efficient operation of the pipeline, and their actions are for the most part ministerial in nature since they respond to the directives of others and the operating needs of the pipeline. FGT thus seeks clarification, or, in the alternative, rehearing that these types of personnel who merely act at the direction of others and who normally are not likely to receive information covered under the rule would be considered non-operating personnel.

2. Commission Ruling

In Order No. 497–E, the Commission stated that "[e]mployees with no direct operational responsibilities and whose duties are only supportive in nature need not be considered operating employees."[24] The personnel described by FGT are essentially responsible for the operation and maintenance of the pipeline's equipment. The Commission finds that such field personnel are supportive in nature and would not have direct operational responsibilities. Therefore, any field technicians or mechanics and their immediate supervisors would not be considered operating employees. However, to the extent supervisory field personnel have the ability to control a pipeline's gas operations, they would be considered operating employees. For example, a supervisor who oversees the quality of the work of several technicians or mechanics would not be considered an operating employee. However, if the supervisor had the ability to restrict or shut down the operation of a particular section of the pipeline, that supervisor would be considered an operating employee. Accordingly, FGT's request for clarification is granted. However, FGT should remember that even if its field personnel are not considered to be operating employees for purposes of the separation requirement of Standard G, it is still subject to the provisions of Standards E and F.

[16] Order No. 497–E at 30,996.

[17] FGT made a similar argument with respect to ANR Pipeline Company, 65 FERC ¶ 61,386 (1993). For the same reasons that Order 497–E does not support FGT's argument, neither does the decision in ANR.

[18] East Tennessee Natural Gas Company, 65 FERC ¶ 61,389 at 63,062 (1993).

[19] Procedures of Florida Gas Transmission Company to Implement the Standards of Conduct. Docket No. MG88–3–003, February 2, 1990. FGT's two previous standards of conduct filed in 1988 did not limit the language of Standards E and F. "Florida Gas Transmission Company's Procedures to Implement the Standards of Conduct," Docket No. MG88–3–000, September 12, 1988 and "Procedures of Florida Gas Transmission Company to Implement the Standards of Conduct in 18 CFR 161.3," Docket No. MG88–3–002, November 17, 1988.

[20] The other interstate pipelines affiliated with FGT that have similarly restricted Standards E and F are: Black Marlin Pipeline (Black Marlin) in Docket Nos. MG88–14–000 *et al.*; Northern Natural Gas Company (Northern Natural) in Docket No. MG88–7–000 *et al.*; and Transwestern Pipeline Company (Transwestern) in Docket Nos. MG88–9–000 *et al.*

[21] Order Accepting Filings, ANR Pipeline Company, Docket No. MG88–44–000 *et al.*, 55 FERC ¶ 61,260 (1991).

[22] A copy of this order is being served on all parties on the official service lists for the above-referenced MG dockets for Black Marlin, Northern Natural and Transwestern.

[23] *Citing,* 65 FERC ¶ 61,381, slip op. at 54 (1993).

[24] Order No. 497–E, slip op. at 54.

**The Commission Orders**

FGT's request for rehearing is denied. Clarification is granted as discussed above.

By the Commission.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7815 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 558

### New Animal Drugs for Use in Animal Feeds; Salinomycin, Roxarsone, and Bacitracin Methylene Disalicylate

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Hoechst-Roussel Agri-Vet Co. The ANADA provides for using approved single ingredient Type A medicated articles to make Type C medicated broiler feeds containing salinomycin with roxarsone and bacitracin methylene disalicylate.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Charles J. Andres, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1602.

**SUPPLEMENTARY INFORMATION:** Hoechst-Roussel Agri-Vet Co., P.O. Box 2500, Somerville, NJ 08876–1258, has filed ANADA 200–081. The ANADA provides for using approved single ingredient Type A medicated articles to make Type C medicated broiler feeds containing 40 to 60 grams per ton (g/t) salinomycin sodium activity, 45.4 g/t roxarsone, and 4 to 50 g/t bacitracin methylene disalicylate, for prevention of coccidiosis in broiler chickens caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati,* including some field strains of *E. tenella* that are more susceptible to roxarsone combined with salinomycin than salinomycin alone; and for increased rate of weight gain.

ANADA 200–081 is approved as a generic copy of Agri-Bio's NADA 135–321. ANADA 200–081 is approved as of April 1, 1994. The regulations are amended in 21 CFR 558.550 to reflect the approval.

This approval is for use of single ingredient Type A medicated articles to make Type C medicated feeds. Roxarsone is a Category II drug which, as provided in 21 CFR 558.4, requires an approved form FDA 1900 for making a Type C medicated feed. Therefore, use of salinomycin, roxarsone, and bacitracin methylene disalicylate Type A medicated articles to make Type C medicated feeds as provided in ANADA 200–081 requires an approved form FDA 1900.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. to 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

**List of Subjects in 21 CFR Part 558**

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.550 *Salinomycin* is amended by revising paragraph (a)(2) to read as follows:

**§ 558.550 Salinomycin.**

(a) * * *

(2) To 012799 for use as in paragraphs (b)(1)(i), (b)(1)(iv), and (b)(3)(i) of this section.

* * * * *

Dated: March 25, 1994.

**Richard H. Teske,**

*Acting Director, Center for Veterinary Medicine.*

[FR Doc. 94–7725 Filed 3–31–94; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### 29 CFR Parts 1910 and 1917

**[Docket H–117]**

**RIN 1218–AA22**

### Grain Handling Facilities

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Final decision statement.

**SUMMARY:** OSHA is announcing its determination that the existing record for grain handling facilities is sufficient to support a conclusion regarding whether the ⅛ inch action level housekeeping provision should be extended beyond priority areas, and its decision, based on the existing record, not to extend the ⅛ inch action level provision beyond priority areas.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information, room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–8151.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On December 31, 1987, OSHA promulgated a final standard on grain handling facilities (52 FR 49592, 29 CFR Part 1910.272). Paragraph (i)(2) of that standard required grain elevators to initiate appropriate cleaning measures whenever grain dust accumulations reached a depth of ⅛ inch in "priority housekeeping areas." These areas included floor areas which are within 35 feet of inside bucket elevators; floors of enclosed areas containing grinding equipment; and floors of enclosed areas containing grain dryers located inside the facility. This provision of the standard was challenged in the U.S. Court of Appeals for the Fifth Circuit by the National Grain and Feed Association, and in the D.C. Circuit by the Food and Allied Service Trades Department, AFL-CIO. The cases subsequently were consolidated in the Fifth Circuit.

In its decision issued October 27, 1988, as amended January 24, 1989, the

Court stayed enforcement of the ⅛ inch action level provision and remanded the standard to the Agency for consideration of two issues. First, the Court directed OSHA to further consider whether the ⅛ inch action level as applied to priority areas was economically feasible. Second, the Court directed OSHA to consider expanding the action level requirement to the entire facility.

OSHA's response to the first issue was completed on December 4, 1989. On that date, OSHA published a Supplemental Statement of Reasons (54 FR 49971), again concluding that it was economically feasible to apply the ⅛ inch action level to priority areas. By order dated April 25, 1990, the Court upheld OSHA's rationale on this issue, and lifted the stay of the provision, effective August 1, 1990.

With respect to the second issue, on June 14, 1990, the Secretary reported to the Court on the status of the Agency's review of the question pertaining to whether the action level should be expanded beyond the priority areas. In this report, OSHA concluded that (1) a substantial question existed as to whether the existing record, which closed in 1985, was sufficiently complete and current to support a conclusion on the remaining issue, and that (2) public comment about the contents of the record could assist the Agency in evaluating its adequacy.

Consequently, on December 10, 1990, OSHA published a Request for Information (55 FR 50722) in which the Agency invited comments on whether the existing record was adequate to support a conclusion regarding applying the ⅛ inch action level beyond priority areas. The Request for Information also requested comments on a series of questions designed to explore the record's scope and current relevancy. OSHA believed that comments would be useful in evaluating the capacity of the existing record to support conclusions about the feasibility and efficacy of expanding the action level housekeeping provision. Interested parties were given until March 11, 1991 to submit comments.

## II. Adequacy of the Current Record

OSHA received 122 comments in response to the Request for Information. With respect to the issue concerning the adequacy of the current record, there was unanimity among commenters that the record is sufficiently complete and current to support a conclusion about expanding the ⅛ inch action level (e.g., Ex. 2: 9, 12, 22, 64, 111). For example, a commenter from the Food and Allied Service Trades Department, AFL-CIO (Ex. 2: 12, p. 9) stated:

> [We] feel the current record is sufficiently complete to justify a facility-wide expansion of the dust action level. A significant burden to prove otherwise is on those who feel the record is incomplete.

A commenter from the National Grain and Feed Association (NGFA) (Ex. 2: 22, p. 6) remarked:

> NGFA submits that the existing record is more than adequate for OSHA to conclude that extending the ⅛ inch action level to the whole facility is infeasible.
>
> If the current record is deficient in any way, it is in the area of risk assessment and evaluation of potential benefits.
>
> NGFA does not believe that the need to update risk analysis is reason alone for re-opening the record. But the clear fact is that, if the record is re-opened, this is one area where both risks and potential benefits of more regulation have been substantially overstated.

Additionally, a commenter from the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America (Ex. 2: 64) said:

> We feel that the current record regarding benefits, costs and feasibility of expanding the ⅛ inch facility wide action level is adequate. This is further substantiated by OSHA's acknowledgement of the adequacy of the current record during 1987 rulemaking activities.

Another commenter, from the Grain Elevator & Processing Society (GEAPS) (Ex. 2: 111, p. 5) stated:

> GEAPS suggests that the current record is adequate to determine that the additional benefits vs. costs clearly indicate that expanding the ⅛-[inch] action level to the entire facility is neither feasible nor cost effective.

After careful evaluation of the information and data submitted to the record in response to the Request for Information, OSHA believes that the technology, financial considerations, methods of operation, and dust-control methods have not changed significantly since 1984. Therefore, the Agency has determined that the existing record is sufficiently complete and current to support a conclusion about whether or not the ⅛ inch action level in grain elevators should be expanded.

## III. Whether the Action Level Should Be Expanded Beyond Priority Areas

Based on its review of the rulemaking record, OSHA has concluded that it will not expand the ⅛ inch action level beyond priority areas. These conclusions are based on the following considerations.

The great majority of primary explosions in grain elevators occur in well-defined areas, which OSHA has designated priority areas. Reducing the risk of a primary explosion will consequently reduce the possibility of a secondary explosion. These well-defined areas are where the known potential ignition sources are concentrated. OSHA believes it has specified rigorous measures to control ignition sources in priority areas. Requirements addressing the control of ignition sources include the following.

(1) To keep equipment functioning properly and safely, facilities must perform regular preventive maintenance, such as inspection and lubrication, for all grain facility machinery (e.g., bucket elevators and dust collection systems);

(2) Grain dryers at elevators must be capable of automatic shutoff if excessive temperatures are detected, and any new dryers must also be located outside the grain elevator, be protected by an explosion suppression system, or surrounded by fire-resistant walls;

(3) Bucket elevators must be equipped with monitors that will automatically shut down the bucket elevator in the event of a malfunction;

(4) Bucket elevators cannot be jogged to free a choked leg;

(5) Bearings inside bucket elevator casings must be equipped with vibration or heat sensors;

(6) Belts and lagging must have surface electrical resistance not to exceed 300 megohms to avoid the buildup of static electricity;

(7) Employees must be trained to recognize and prevent common ignition sources such as smoking;

(8) Grate openings in receiving-pits must be no more than 2 1/2 inches wide to screen out large objects from the grain stream and consequently from bucket elevators;

(9) Contractor requirements are intended to assure that grain facility employers know what work is being performed at the facility by contractors (e.g., welding and other hot work), where it is being performed, and that it is being performed in a manner that will not endanger employees.

Additionally, the housekeeping provisions of the standard (applicable to grain elevators and mills) require careful control of fugitive grain dust emissions not only in priority areas. In Appendix A, OSHA has described the basic elements of an adequate housekeeping program. The employer must analyze the entire stock handling system to identify sources of dust and effective controls. Based on that information, the employer is to develop a schedule for cleaning, inspection and maintenance that is capable of "best reducing" emissions from the identified sources.

The schedule is to give priority to areas with numerous ignition sources. The plan must incorporate cleaning techniques for difficult-to-reach areas such as rafters. The plan must address contingencies such as equipment breakdown. Provision must be made for access to enclosed mechanical systems. If the employer's written housekeeping program does not reflect these and similar assessments and plans, OSHA will consider the program inadequate on its face. If the employer does not follow the written program, OSHA will consider the program inadequate as applied (OSHA Compliance Directives 2–1.4B, 1988, and 2.35, 1990). Substantial accumulations of grain dust are citable under the existing standard, since they indicate the existence of an inadequate housekeeping plan. To reiterate, a written housekeeping program must be developed and implemented for the entire facility, not just priority housekeeping areas. This provision is intended to assure that dust accumulations are periodically removed *throughout* the facility, and to minimize the possibility and severity of secondary explosions (and the resulting deaths and injuries).

In addition to developing and implementing a systematic program of scheduled housekeeping that will "best reduce" dust in grain elevators and mills, the grain elevator employer must immediately clean up dust accumulations whenever they reach ⅛ inch in depth anywhere within 35 feet of inside bucket elevators or floors of enclosed areas containing grinding equipment or grain dryers. As OSHA explained when the standard was promulgated, these areas are designated priority areas because they contain the greatest concentration of ignition sources and involve the majority of explosions (52 FR 49611). Including a specific compliance requirement in the generally performance-oriented housekeeping program has the effect of supplying OSHA with an objective measure of compliance in the most hazardous areas while preserving for employers flexibility in areas with few moving parts or ignition sources.

In OSHA's judgment, the available evidence offers no basis for anticipating a significant additional benefit resulting from the imposition of the action level requirement on non-priority areas. First, any estimate of additional benefit due to expanding the action level requirement must reflect the extensive housekeeping, ignition control, employee training, hot work restrictions, and other safety measures that are already being imposed by the standard. Secondly, the vast majority of grain elevators will not be affected by expansion of the action level housekeeping requirement, because they are small country elevators which have little if any non-priority area. See RIA p. VI–26, Table VI–8; 54 FR 49974 Table I, n. 1, Table II (Dec. 4, 1989). Finally, while many of the incident reports currently in the record show that the elevators where fires or explosions occurred were dusty and therefore support OSHA's conclusions that systematic and comprehensive housekeeping helps to eliminate or reduce the severity of grain dust explosions, they provide no basis for inferring that adding a facility-wide action level to the existing housekeeping requirements would appreciably contribute to safety. None of the respondents to OSHA's Request for Information suggested that the incident reports were deficient or misleading in this regard or that other incident reports not in the record could show significant benefit attributable solely to the use of an action level in non-priority areas. Accordingly, the incident profiles provide no basis on which OSHA could project additional safety benefits due to action level housekeeping in non-priority areas.

Although OSHA recognizes the importance of grain dust depth, the record indicates that the consistency of housekeeping throughout facilities is far more important. As noted above, substantial accumulations of grain dust in non-priority areas are now subject to citation under the current standard, since they indicate the existence of an inadequate housekeeping plan. The current standard, for example, more than adequately prohibits the kinds of accumulations reported to have occurred prior to promulgation of the standard. (See, e.g., 54 FR 49610–49611.)

As suggested in the preamble to the standard (52 FR 49610, 49611) expanding the action level to non-priority areas holds the potential for diverting housekeeping attention to areas where minimizing grain dust is less critical. In the absence of any documented benefits to be gained from expanding the action level, OSHA declines to do so.

OSHA's original estimates of the standard's effectiveness were conservative. In factoring in unavoidable human error, unpreventable mechanical failure, and acts of nature such as lightning strikes or static electricity, OSHA chose to err on the side of understating the standard's actual effectiveness. Although OSHA was confident that the standard's housekeeping requirements and ignition control requirements each would contribute to the standard's effectiveness, it recognized the possibility that there would also be some degree of overlap in efficacy. For this reason also, OSHA applied efficacy projections for the standard at the low rather than the high end of the probability scale. In consequence, OSHA explained in 1987 that it was not predicting that the standard would eliminate all significant risk of injury and death due to grain elevator explosions. (52 FR 49622.) At the same time, however, it was clear that the standard's actual efficacy was likely higher than the calculations indicated. Correspondingly, the margin of residual risk that could be affected by adjustments to the standard, such as adding an action level to non-priority area housekeeping, is less than the 1987 calculations indicated.

OSHA's determination not to expand the action level requirement is based on the rulemaking record that closed in 1985. It is worth noting, however, that responses to the 1990 Request for Information (55 FR 50722) that discussed industry experience since the close of the record tend to confirm OSHA's conclusion. None of the commenters who cited post-rulemaking explosions as grounds for expanding the action level requirement pointed to evidence that lack of an action level contributed to the explosions or their severity. Some of the commenters who supported expansion of the action level requirement did so not because they believed the action level per se contributed to safety, but because it would increase the cost of sweeping as a method of compliance and thereby increase the elevator operator's incentive to use engineering controls for dust containment instead of sweeping.

Accordingly, OSHA has determined not to expand the ⅛ inch action level in grain elevators.

### Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, in response to the order of the U.S. Court of Appeals for the Fifth Circuit in *National Grain and Feed Association* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989). See also *National Grain and Feed Association* v. *OSHA*, 903 F.2d 308 (5th Cir. 1990). It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)); section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C.

941); Secretary of Labor's Order No. 1–90 (55 FR 9033); and, 29 CFR part 1911.

Signed at Washington, DC this 25th day of March, 1994.

**Joseph A. Dear,**

*Assistant Secretary*

[FR Doc 94–7803 Filed 3–31–94; 8:45 am]

BILLING CODE 4510–26–F

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### 31 CFR Part 580

### Haitian Transactions Regulations; Extension of Assembly Sector Licenses

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Policy statement.

**SUMMARY:** The Office of Foreign Assets Control is extending until May 31, 1994, the expiration date for all current assembly sector licenses issued pursuant to the Haitian Transactions Regulations.

**EFFECTIVE DATE:** March 29, 1994.

**FOR FURTHER INFORMATION CONTACT:** Steven I. Pinter, Chief of Licensing (tel: 202/622–2480), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem dial 202/512–1387 or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

#### Background

Licenses issued pursuant to § 580.515 of the the Haitian Transactions Regulations, 31 CFR part 580 (the "Regulations"), authorize transactions in connection with both the exportation to Haiti of articles containing specified parts or materials, and the importation into the United States of specified articles assembled in Haiti containing materials or parts exported from the United States. By a policy statement published on February 18, 1994, the expiration date of those licenses was extended to March 31, 1994 (59 FR 8134). The Office of Foreign Assets Control has determined to extend the licenses for an additional 60 days. Accordingly, under the authority of 50 U.S.C. 1701 through 1706; E.O. 12775, 3 CFR, 1991 Comp., p. 349; and E.O. 12779, 3 CFR, 1991 Comp., p. 367, the Office of Foreign Assets Control gives notice that:

1. The expiration date of all licenses issued pursuant to § 580.515 of the Regulations and in effect as of March 29, 1994, is extended to May 31, 1994.

2. Holders of such licenses need not file requests for renewal with the Office of Foreign Assets Control.

Dated: March 16, 1994.

**R. Richard Newcomb,**

*Director, Office of Foreign Assets Control.*

Approved: March 18, 1994.

**John P. Simpson,**

*Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

[FR Doc. 94–7801 Filed 3–29–94; 11:04 am]

BILLING CODE 4810–25–F

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### 43 CFR Public Land Order 7036

**[CO–930–4210–06; COC–53648]**

### Withdrawal of National Forest System Land for Protection of the Lake Catamount Recreation Area; Colorado

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order withdraws, 4,774.72 acres of National Forest System land from mining for 50 years to protect recreational resources and planned facilities at the Lake Catamount Recreation Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)) for protection of the Lake Catamount Recreation Area:

**Sixth Principal Meridian**

**Routt National Forest**

A tract of land located in T. 4 N., R. 83 W., in T. 4 N., R. 84 W., in T. 5 N., R. 83 W., and in T. 5 N., R. 84 W., all of the 6th Principal Meridian, County of Routt, State of Colorado, described as follows: Commencing at the Southwest Corner of Section 34, T. 5 N., R. 84 W. of the 6th P.M.; from which the Southeast Corner of said Section 34 bears S. 89°46′00″ E., thence S. 89°46′00″ E., 744.50 feet along the South line of the SW¼ of said Section 34 to the Northwest Corner of Section 10, T. 4 N., R. 84 W. of the 6th P.M.; thence S. 00°51′54″ W., 2462.87 feet along the West line of the NW¼ said Section 10 to the W¼ Corner of Said Section 10 and the *TRUE POINT OF BEGINNING;*

Thence N. 87°26′28″ E., 2676.68 feet along the East-West Centerline of said Section 10 to the Center of said Section 10;

Thence N. 87°26′28″ E., 2675.77 feet along the East-West Centerline of said Section 10 to the East ¼ Corner of said Section 10;

Thence N. 00°49′54″ E., 1520.50 feet along the East line of the NE¼ of said Section 10 to the Southwest Corner of Lot 4 in Section 11, T. 4 N., R. 84 W. of the 6th P.M.;

Thence S. 89°04′17″ E., 1396.52 feet along the South line of said Lot 4 to the Southeast Corner thereof;

Thence N. 00°49′41″ E., 610.91 feet along the East line of Said Lot 4 to the Northeast Corner thereof;

Thence N. 89°10′57″ W., 882.66 feet along the North line of said Lot 4 to the Southeast Corner of the SW¼SW¼ of Section 35, T. 5 N., R. 84 W. of the 6th P.M.;

Thence N. 01°16′10″ E., 982.57 feet along the East line of the SW¼SW¼ of said Section 35 to the Northeast Corner of the S½N½SW¼SW¼ of said Section 35;

Thence N. 89°08′48″ W., 1319.48 feet along the North line of the S½N½SW¼SW¼ of said Section 35 to the Northwest Corner thereof;

Thence N. 01°19′12″ E., 1639.00 feet along the East line of the SE¼ of said Section 34 to the E¼ Corner of said Section 34;

Thence N. 01°19′12″ E., 350.93 feet along the East line of the NE¼ of said Section 34;

Thence N. 78°49′45″ E., 2376.44 feet;

Thence S. 81°29′04″ E., 1280.85 feet;

Thence S. 72°18′00″ E., 3840.16 feet;

Thence S. 79°00′15″ E., 1400.30 feet;

Thence S. 84°00′44″ E., 1389.97 feet;

Thence N. 80°22′05″ E., 1279.97 feet to a point from which Point "A" bears N. 49°25′08″ E., 2466.82 feet;

Thence N. 70°38′29″ E., 960.82 feet to the Easterly right-of-way line of U.S. Highway No. 40;

Thence Northeasterly, 1244.65 feet along the Easterly right-of-way line of said U.S. Highway No. 40 and along the arc of a curve concave to the Northwest to a point from which said Point "A" bears N. 74°19′30″ E., said arc having a radius of 870.00 feet, a central angle of 81°58′10″ and being subtended by a chord that bears N. 15°25′43′ E., 1141.19 feet;

Thence N. 74°19′30″ E., 689.04 feet to said Point "A";

Thence S. 77°20′43″ E., 745.15 feet;

Thence S. 58°10′49″ E., 607.76 feet;

Thence S. 33°03′40″ E., 811.02 feet;

Thence S. 09°03′08″ E., 1423.00 feet;

Thence S. 04°48′05″ E., 743.70 feet;

Thence S. 06°06'38" W., 1869.25 feet;
Thence S. 26°09'44" W., 2060.79 feet;
Thence S. 34°45'25" W., 1861.62 feet;
Thence S. 60°02'35" W., 877.46 feet;
Thence S. 41°17'36" W., 538.07 feet;
Thence S. 04°11'27" W., 725.14 feet;
Thence S. 20°03'25" E., 1167.96 feet;
Thence S. 11°56'00" E., 840.15 feet;
Thence S. 00°24'30" E., 2654.12 feet;
Thence S. 12°47'47" W., 1876.33 feet to a point from which Point "B" bears N. 62°41'52" W., 9635.18 feet;

Thence S. 18°51'55" W., 1025.93 feet to the top of the ridge dividing the Green Creek drainage from the Service Creek drainage, all located in said T. 4 N., R. 83 W. and T. 4 N., R. 84 W., all of the 6th P.M.; The following courses and distances are along the top of the ridge dividing said Green Creek drainage from said Service Creek drainage:

Thence S. 80°41'31" W., 1356.75 feet;

Thence Westerly, 705.71 feet along the arc of a curve concave to the South to a point tangent, said arc having a radius of 1300.00 feet, a central angle of 31°06'11" and being subtended by a chord that bears S. 82°52'55" W., 697.07 feet;

Thence S. 67°19'49" W., 167.61 feet to a point of curve to the left; Thence Southwesterly, 231.82 feet along the arc of said curve to a point tangent, said arc having a radius of 250.00 feet, a central angle of 53°07'48" and being subtended by a chord that bears S. 40°45'55" W., 223.61 feet;

Thence S. 14°12'01" W., 187.80 feet to a point of curve to the right;

Thence Southwesterly, 107.22 feet along the arc of said curve to a point of compound curve, said arc having a radius of 72.50 feet, a central angle of 84°43'59" and being subtended by a chord that bears S. 56°34'00" W., 97.71 feet;

Thence Northwesterly, 568.69 feet along the arc of said compound curve to a point of reverse curve, said arc having a radius of 2875.00 feet, a central angle of 11°20'00" and being subtended by a chord that bears N. 75°24'00" W., 567.76 feet;

Thence Westerly, 929.85 feet along the arc of said reverse curve to a point of reverse curve, said arc having a radius of 1400.00 feet, a central angle of 38°03'17" and being subtended by a chord that bears N. 88°45'39" W., 912.86 feet;

Thence Southwesterly, 688.16 feet along the arc of said reverse curve to a point of compound curve, said arc having a radius of 3540.00 feet, a central angle of 11°08'17" and being subtended by a chord that bears S. 77°46'51" W., 687.08 feet;

Thence Northwesterly, 360.56 feet along the arc of said compound curve to a point of compound curve, said arc having a radius of 445.00 feet, a central angle of 46°25'24" and being subtended by a chord that bears N. 73°26'18" W., 350.78 feet;

Thence Northwesterly, 1137.05 feet along the arc of said compound curve to a point of reverse curve, said arc having a radius of 4770.00 feet, a central angle of 13°39'28" and being subtended by a chord that bears N. 43°23'51" W., 1134.36 feet;

Thence Northwesterly, 1625.44 feet along the arc of said reverse curve to a point of reverse curve, said arc having a radius of 2875.00 feet, a central angle of 31°23'36" and being subtended by a chord that bears N. 52°45'55"., 1603.88 feet;

Thence Northwesterly, 543.91 feet along the arc of said reverse curve to a point of reverse curve, said arc having a radius of 660.00 feet, a central angle of 47°13'03" and being subtended by a chord that bears N. 45°21'12" W., 528.65 feet;

Thence Northwesterly, 1783.67 feet along the arc of said reverse curve to a point from which said Point "B" bears N. 00°49'23" E., said arc having a radius of 5810.00 feet, a central angle of 17°35'23" and being subtended by a chord that bears N. 30°32'22" W., 1776.68 feet;

Thence, leaving the top of the ridge dividing said Green Creek drainage from said Service Creek drainage, N. 00°49'23"E., 2352.39 feet to said Point "B":

Thence N. 60°45'27" W., 137.96 feet;
Thence N. 89°57'38" W., 302.60 feet;
Thence N. 70°32'53" W., 614.23 feet;
Thence N. 58°44'40" W., 637.71 feet;
Thence N. 86°35'58" W., 733.63 feet;
Thence N. 63°56'43" W., 1325.80 feet;
Thence N. 87°03'01" W., 328.07 feet;
Thence S. 43°12'11" W., 323.40 feet;
Thence N. 80°39'35" W., 251.13 feet;
Thence N. 42°15'30" W., 599.90 feet;
Thence N. 56°34'33" W., 937.49 feet;
Thence N. 20°00'02" W., 436.10 feet;
Thence N. 70°46'58" W., 1862.12 feet;
Thence N. 52°55'50" W., 889.16 feet to the West line of the SW¼ of said Section 10;

Thence N. 00°49'33" E., 2131.11 feet along the West line of the SW¼ of said Section 10 to the W¼ Corner of Section 10, T. 4 N., R. 84 W., Sixth Principal Meridian, Colorado at the *TRUE POINT OF BEGINNING.*

The area described contains 4,774.72 acres of National Forest System land in Routt County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: March 29, 1994.

**B.R. Cohen,**

*Assistant Secretary of the Interior.*

[FR Doc. 94–7887 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–JB–M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### 45 CFR Part 1180

### Institute of Museum Services: Technical Assistance Grants

**AGENCY:** Institute of Museum Services, NFAH.

**ACTION:** Final regulations.

**SUMMARY:** The Institute of Museum Services issues final regulations relating to a program of Federal financial assistance for technical assistance grants to support training and implementation in museums. The regulations implement the Museum Services Act. They state eligibility, conditions and other terms for the administration of the Technical Assistance Grants.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Danvers, Telephone: (202) 606–8539.

**SUPPLEMENTARY INFORMATION:**

#### General Background

The Museum Services Act ("the Act" which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended in 1980, 1982, 1984, 1985, and 1990). The purpose of the Act is stated in section 202 as follows:

It is the purpose of the Museum Services Act to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of non-formal education for all age groups: to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museums Services Board and Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museum disciplines, including those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational, and cultural resources of the United States; and of the general public. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums. IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Public Law 101–512, Nov. 5,

1990. The Act lists a number of illustrative activities for which grants may be made, including assisting museums to improve their operations. Training and implementation provided by the Technical Assistance Grants are intended to help museums improve their operations.

## Subpart F—Technical Training and Implementation Grants to Museums

### Response to Comments

IMS published proposed regulations on September 17, 1993. IMS received two letters of comment. One letter regards clarification on the eligibility requirement for staff and acceptable training opportunities. IMS has added language that clarifies that a museum is considered eligible for Technical Assistance Grants if it has full-time or part-time staff. IMS has added language that clarifies under what conditions sessions offered as part of program at an annual meeting of a professional museum association would be considered as a training activity.

One commenter believed that funding should be available for assisting a museum to begin operation. IMS believes that it is appropriate that the limited federal funds available to museums through IMS programs be offered to museums that have a record of public service. IMS recognizes the value of newly opened museums by including them in the eligibility for two other IMS programs of assistance (CAP and MAP).

One commenter believed Technical Assistance Grant funds should be available to professional associations. It is the intent of the Technical Assistance Program to reach unserved museums and thereby increase our services to museums. IMS recognizes the valuable services of professional associations and currently has two programs of assistance open to professional associations (PSP and MLI).

### List of Subjects in 45 CFR Part 1180

Grant programs—education, Museums, Nonprofit organizations.

Therefore, as set forth in the preamble, part 1180 of title 45 of the Code of Federal Regulations is amended as follows:

## PART 1180—[AMENDED]

1. The authority citation for part 1180 continues to read as follows:

**Authority:** 20 U.S.C. 961 *et seq.*, unless otherwise noted.

2. Section 1180.78 is added to read as follows:

### § 1180.78 Technical training and implementation grants to museums.

(a) *Purpose of Program.* The Director of the Institute of Museum Services makes two-part grants under this subpart to assist those who work in museums (paid or volunteer) to obtain training in technical areas of museum operations and to implement the training to improve museum services to the public.

(b) *Eligibility.* (1) To be eligible to apply for a grant under this subpart, a museum must:

(i) be a public or private nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes; and

(ii) care for, and own or use tangible objects, whether animate or inanimate, and exhibit these objects to the public on a regular basis through facilities which it owns or operates, and

(iii) have at least one staff member, whether paid or unpaid, full-time or part-time, whose primary responsibility is the acquisition, care or exhibition to the public of objects owned or used by the museum; and

(iv) be open and providing museum services to the general public on a regular basis; and

(v) be located in one of the fifty States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or Palau (until its compact of free association is approved.)

(2) A museum must have an operating budget for the fiscal year immediately preceding the deadline to which the museum applies of no more than $250,000 exclusive of non-cash support.

(3) Museum includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(i) aquariums and zoological parks;

(ii) botanical gardens and arboretums;

(iii) nature centers;

(iv) museums relating to art, history (including historic buildings and sites);

(v) natural history, science and technology, planetariums, and specialized subject.

(4) A museum that receives a grant for training and implementation under this subpart for a fiscal year may not receive another grant under this subpart for the same or subsequent fiscal years.

(5) Preference for funding will be given to a museum that has not received any grants from the Institute within two years of the deadline to which it applies over funding for a museum that has received a grant from the Institute within two years of application.

(c) *Applicability of other regulations* The following sections in part 1180 do apply to grants for training and implementation under this subpart: Sections 1180.3(d), 1180.4, 1180.5(c)–(e), 1180.6, 1180.10, 1180.11(a)–(b), 1180.16(b), 1180.30–34, 1180.36–37, 1180.39, 1180.42–44, 1180.47–48, 1180.51–57, part 1183, part 1185.

(d) *Application requirements.* (1) An applicant under this subpart must submit an application in such time and such manner, and containing such information, as requested by the Institute.

(2) An applicant must submit with its application financial information for its most recently completed fiscal year for which satisfactory information is available and projected financial information for the fiscal year(s) that includes the time of the grant period.

(e) *Procedures and criteria for review of applications.* (1) To evaluate applications and determine the amount of their awards, the Institute rates competitive applications under the criteria stated in paragraph (e)(2) of this section. Normally, these applications are evaluated by field reviewers, panels of experts, or both. The director may also use technical experts in the review of applications.

(2) This paragraph sets forth the criteria the Institute uses in evaluating and reviewing applications for technical training and implementation grants under this subpart. Evaluators are instructed to use only these criteria in the evaluation of these applications.

(i) Does the museum demonstrate its importance to the community it serves?

(ii) Is the type of training requested appropriate to the purpose or mission of the museum?

(iii) Are the costs requested to obtain the training reasonable and necessary?

(iv) Is the training needed at the museum?

(v) Is the staff member(s) (paid or volunteer) identified to receive the training the appropriate person(s) within the museum's organizational structure?

(vi) Does the individual(s) identified for training demonstrate at least a two-year commitment to the museum field?

(vii) Does the museum demonstrate a commitment to implement the training?

(f) *Allowable costs.* (1) A museum may use a grant under this subpart for expenses to obtain training in areas of museum operations and for activities to implement the training.

(2) Funds may be used to pay for registration or tuition fees for training courses or workshops. Individual(s) may use the grant funds to pay for a course that is part of a degree-granting program only for non-credit such as to audit the course.) Funds are generally not

intended to support attendance at association annual meetings unless a specific training session or workshop is part of the meeting (or as a pre or post conference activity). A course of study that is identified by clearly and specifically named sessions that are part of an annual meeting program and that clearly and specifically address the area of training need will be considered.

(3) Funds may be used for travel to and from training activities and expenses incurred during travel, such as housing and meals.

(4) Funds may be used to purchase instructional materials.

(5) Funds may not be used to pay the salary of the person(s) receiving the training. The time the staff member(s) expends to obtain the training and to implement the training is considered a matching, in-kind contribution to the grant activities.

(6) Funds may not be used for consulting fees. (In special cases where training is not available otherwise, the Institute may consider an individually designed training agenda that includes the use of a consultant clearly serving as a trainer to the applicant in specific areas of museum operations.)

(7) Funds may be used to purchase supplies, materials, and equipment for areas of museum operations for which training was received.

(8) Funds may support additional travel as needed to implement training (eg. travel to libraries, archives, etc. to document collections).

(g) *Conditions of participation.* Following the completion of the training activity the museum must submit an implementation plan to the Institute for review before implementation funds are released. The implementation plan must indicate the time frame for implementation activities, the personnel involved, the activities to be completed, where the activities will take place, and the costs for implementing the plan.

(h) *Form of assistance: limitation of amount.* (1) The Director makes payments to a museum under this subpart in advance.

(2) The amount of the grant to a museum will be determined by the Director, in accordance with the policy direction of the Board, regarding the maximum amount available for each part of the grant. The amount of the grant will be subject to the availability of funds.

(i) *Reporting requirements.* The museum receiving a grant for training and implementation under this subpart must submit a final financial and narrative report that evaluates the success of the applicant in meeting the stated goals and any plans to continue activities in the area of training.

(j) *Limitation on number of applications.* A museum may submit only one application for each deadline.

(k) *Duration of grant.* (1) Grants made under this subpart generally permit the grantee to use the funds for a period of up to 24 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated.

(2) If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

Dated: March 1, 1994.

**Diane B. Frankel,**

*Director, Institute of Museum Services.*

[FR Doc. 94–7779 Filed 3–31–94; 8:45 am]

BILLING CODE 7036–01–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AB75**

### Endangered and Threatened Wildlife and Plants; Correction to Final Rule Listing Cucurbita Okeechobeensis ssp. Okeechobeensis (Okeechobee Gourd) as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service corrects the entry for *Cucurbita okeechobeensis* ssp. *okeechobeensis* (Okeechobee Gourd) as an endangered species. An incomplete scientific name was provided in the table entry. A correction is provided.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Jamie Rappaport Clark, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service (452–ARLSQ), Washington, DC 20240 (703 358–2171).

**SUPPLEMENTARY INFORMATION:**

**Background**

As published, the amendment to the table at § 17.12(h) in the final regulation (July 12, 1993, 58 FR 37432) contains the scientific name of the full species *Cucurbita okeechobeensis*, although the preamble refers to only the nominate subspecies, *Cucurbita okeechobeensis* ssp. *okeechobeensis*. Because this error could cause confusion and might prove misleading, a technical correction is provided.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulations Promulgation**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

**§ 17.12 [Amended]**

2. Amend § 17.12(h) under "Cucurbitaceae—Gourd Family" by adding at the end of the entry "*Cucurbita okeechobeensis*" under the heading "Scientific name", the words "ssp. *okeechobeensis*". Further, the numbers under "When listed" are revised to read "507, 537".

Dated: March 25, 1994.

**Mollie H. Beattie,**

*Director, Fish and Wildlife Service.*

[FR Doc. 94–7835 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 663

**[Docket No. 940257–4091; I.D. 030894C]**

### Pacific Coast Groundfish Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; suspension of effectiveness; extension.

**SUMMARY:** NMFS issues this final rule to extend for an additional 14 days, the current 3-month suspension of the vessel size endorsement requirement for vessels operating in the limited-entry fishery for Pacific groundfish off Washington, Oregon, and California. On January 1, 1994, a limited-entry program was implemented in the Pacific coast groundfish fishery off Washington, Oregon, and California. The program, which was authorized under the Pacific Coast Groundfish Fishery Management

Plan (FMP), requires an owner of a vessel operating in the limited-entry fishery to have a Federally issued limited-entry permit with an appropriate vessel size endorsement. In anticipation of a delay in issuing final regulations that will allow the stepping-up of size endorsements by combining permits, NMFS is extending the current 3-month suspension of effectiveness of the vessel size endorsement requirement for an additional 14 days, until April 15, 1994. The intent of this action is to allow owners of vessels that are larger than the size endorsed on their permits, who intend to increase the vessel size endorsed by combining limited-entry permits, to participate in the limited-entry fishery. They would otherwise be barred from the fishery pending issuance of the rule allowing the combining of permits.

**EFFECTIVE DATE:** Effective March 31, 1994, this document extends the suspension of the effective date for 50 CFR 663.33(f)(2) from 0001 hours (local time) April 1, 1994, through 2400 hours (local time) April 14, 1994.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206–526–6140.

**SUPPLEMENTARY INFORMATION:** On November 16, 1992, NMFS published regulations, effective January 1, 1994, establishing a license-limitation limited-entry system for the Pacific Coast commercial groundfish fishery. The regulations, among other things, require that an owner of a vessel operating in the limited-entry fishery have a federally issued limited-entry permit with an appropriate vessel size endorsement. Limited-entry permits are transferrable and may be combined in order to increase the size endorsement.

Under § 663.33(f)(2), the owner of a vessel that is larger than the size endorsed on the permit could not participate in the fishery until he/she obtained a single permit endorsed with the size of the larger vessel. The size endorsement requirement was suspended (59 FR 258; January 4, 1994) for 3 months, until April 1, 1994, pending implementation of a rule that would establish a schedule for combining permits from smaller vessels (with smaller length endorsements) into one permit for a larger vessel with a larger length endorsement. The proposed rule for increasing size endorsements was published in the **Federal Register** on February 25, 1994 (59 FR 9171), and the comment period ended March 21, 1994.

A number of vessel owners have acquired larger vessels and additional limited-entry permits. However, until the final rule for combining permits is issued, they will not know the exact number of permits from smaller vessels they will need to satisfy the length endorsement for the larger vessel. Even if the final rule were effective by April 1, 1994, when the current suspension of the length endorsement expires, vessel owners would need additional time to complete transfers of permits. Under § 663.33(f)(2), none of these vessel owners could participate in the fishery until he/she obtained a single permit endorsed with the size of the larger vessel. Therefore, it is necessary to extend the suspension of the vessel size endorsement requirement for an additional 14 days, until April 15, 1994.

Failure to extend the suspension of the size endorsement requirement would prevent limited-entry permit owners who have already obtained, or are in the process of obtaining, additional limited-entry permits for combination into a larger permit, from participating in the limited-entry fishery until NMFS issues the necessary final rule. The limited-entry program is not intended to prevent permit owners from participating in a fishery for which they have obtained the appropriate limited-entry permits.

NMFS does not expect this further suspension to result in much, if any, additional harvest capacity entering the limited-entry fishery during the time of the suspension. The harvest of all major species taken in the limited-entry fishery until April 15 is controlled with restrictive trip limits that serve as a disincentive to any permit holders bringing new, large-capacity fishing vessels into the fishery.

## Classification

This final rule is issued under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Because this rule must be in effect at the time the current suspension of effectiveness expires, in order to allow vessel owners who intend to combine permits to participate in the limited-entry fishery, pending establishment of a system to combine permits, it is not in the public interest to provide prior public comment under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)). Also, because this rule temporarily relieves a restriction, it is being made effective immediately without a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

## List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 28, 1994.

**Charles Karnella,**

*Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, the suspension of 50 CFR 663.33(f)(2) is extended from 0001 hours (local time) April 1, 1994, through 2400 hours (local time) April 14, 1994.

[FR Doc. 94–7721 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–22–P

## 50 CFR Part 675

**[Docket No. 90899–0015; I.D. 032594A]**

## Groundfish of the Bering Sea and Aleutian Islands Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Modification of observer coverage requirements.

**SUMMARY:** NMFS is modifying 1994 observer coverage requirements established for operators of certain catcher or processor vessels participating in a directed fishery for groundfish in statistical area 517 during the period that the 1994 directed fishery for Pacific cod is open in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to implement gear specific observer coverage requirements that result from new regulations implementing Amendment 24 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) that allocate the BSAI Pacific cod total allowable catch (TAC) among vessels using trawl, hook-and-line or pot, and jig gear. This action is intended to carry out the objectives of the North Pacific Fishery Management Council.

**EFFECTIVE DATE:** Effective March 29, 1994, and expires 12 midnight, Alaska local time, December 31, 1994.

**FOR FURTHER INFORMATION CONTACT:** Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, (907) 586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS published a final rule in the **Federal Register** on January 20, 1994 (59 FR 3000), that implemented a change in 1994 observer coverage requirements for vessels participating in a directed fishery for groundfish in BSAI statistical area 517. The rule required an operator of a catcher or processor vessel equal to or greater than 60 feet (18.3 m) in length overall (LOA) and less than 125 feet

(38.1 m) LOA to have a NMFS-certified observer on board the vessel each day that it is used to participate in a directed fishery for groundfish in statistical area 517 during the period that the 1994 directed fishery for Pacific cod is open. NMFS published a second rule in the **Federal Register** on January 28, 1994 (59 FR 4009), that suspended the effective date of the change in 1994 observer coverage requirements until February 13, 1994, to provide adequate time for operators of catcher or processor vessels to comply with these new requirements. Reasons for these actions are set forth in the **Federal Register** as referenced above.

On January 28, 1994, NMFS published in the **Federal Register** a final rule implementing Amendment 24 to the FMP (59 FR 4009). These regulations: (1) Allocate the 1994 Pacific cod TAC among vessels using trawl, hook-and-line or pot gear, and jig gear, and (2) seasonally apportion the amount of the Pacific cod TAC allocated to vessels using hook-and-line or pot gear. The 1994 observer coverage requirements implemented for vessels participating in a directed fishery for groundfish in statistical area 517 during the period of time that a directed fishery for Pacific cod is open must be modified to reflect gear specific allocations of BSAI Pacific cod implemented under Amendment 24.

NMFS modifies 1994 observer coverage requirements for vessels fishing for groundfish in statistical area 517 so that a vessel equal to or greater than 60 feet (18.3 m) LOA and less than 125 feet (38.1 m) LOA using trawl, hook-and-line or pot, or jig gear must have a NMFS-certified observer on board the vessel each day that it is used to participate in a directed fishery for groundfish in statistical area 517 during the period that a directed fishery for Pacific cod is open to vessels using that respective gear type.

## Classification

This action is taken under 50 CFR 675.25. Because this action is required to provide relief to vessel owners who otherwise would be required to obtain expanded observer coverage, it is unnecessary and not in the public interest to provide prior public comment under 5 U.S.C. 553(b)(3). Also, because this action temporarily relieves a restriction, it is being made effective immediately without a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

## List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: March 29, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 94–7818 Filed 3–29–94; 4:33 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 59, No. 63
Friday, April 1, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 1046

[DA–93–26]

### Milk in the Louisville-Lexington-Evansville Marketing Area; Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Termination of proceeding on proposed suspension of rules.

**SUMMARY:** This action terminates the proceeding that was initiated to consider a proposal to suspend a portion of the pool plant definition of the Louisville-Lexington-Evansville milk order. The suspension was requested by Armour Food Ingredients Company (Armour), which operates a supply plant at Springfield, Kentucky. After evaluating the data, views, arguments, and other pertinent information filed in response to the proposed suspension, it has been determined that an alternative proposed suspension [DA–93–29] will remove the need for the Armour plant to incur inefficient and costly milk movements solely for the purpose of pooling its plant under Federal Order 46. Accordingly, this proceeding is hereby terminated.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456 (202) 690–1932.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Proposed Suspension: Issued September 22, 1993; published September 28, 1993 (58 FR 50527).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This proceeding was initiated by a notice of rulemaking published in the **Federal Register** on September 28, 1993 (58 FR 50527) concerning a proposed suspension of certain provisions of the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area. Interested parties were invited to comment on the proposal in writing by October 5, 1993. The proposal would have suspended the need to include diversions under the "net shipment" provision pursuant to § 1046.7(b).

**Statement of Consideration**

At the present time, the Armour supply plant at Springfield, Kentucky, is regulated under the Tennessee Valley order (Order 11) by virtue of its association with Southern Belle Dairy Company, a pool distributing plant regulated under Order 11. In recent months, Southern Belle has acquired accounts which could cause it to shift regulation from Order 11 to Order 46. If this were to happen, the pooling provisions of Order 46 would be applied to the Armour plant which would cause the plant to have to incur costly and inefficient movements of milk to keep its plant regulated under Order 46.

In a separate action (DA–93–29), certain provisions of Orders 11 and 46 have been suspended which will keep the Southern Belle plant regulated under Order 11 and remove the problems anticipated by Armour that would have been caused by the shift of the Southern Belle plant to Order 46. In view of this suspension, there is no reason to proceed with Armour's request to suspend the net shipment provision of Order 46, and, therefore, the proceeding is terminated.

**List of Subjects in 7 CFR Part 1046**

Milk marketing orders.

The authority citation for 7 CFR part 1046 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Dated: March 28, 1994.

**Patricia Jensen,**

*Acting Assistant Secretary for Marketing and Inspection Services.*

[FR Doc. 94–7841 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

[Docket No. 94–CE–04–AD]

### Airworthiness Directives: Aerostar Aircraft Corporation PA–60–600 and PA–60–700 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This document proposes to supersede AD 92–13–01, which currently requires inspecting the nose landing gear (NLG) drag brace assembly for corrosion on certain Aerostar Aircraft Corporation (Aerostar) PA–60–600 (Aerostar 600) and PA–60–700 (Aerostar 700) series airplanes, and replacing any corroded components. It also requires replacing the existing spring and piston with new corrosion-resistant parts. The proposed action would require replacing the NLG drag link assembly with a new assembly of improved design. The Federal Aviation Administration (FAA) has received several reports of frozen moisture in the cylinder of the over-center release system, which has led to nose gear collapse on airplanes already in compliance with AD 92–13–01. The actions specified by the proposed AD are intended to prevent failure of the NLG caused by frozen moisture in the cylinder, which could lead to nose gear collapse and damage to the airplane.

**DATES:** Comments must be received on or before June 14, 1994.

**ADDRESSES:** Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–04–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to this AD may be obtained from the Aerostar Aircraft Corporation, Customer Service Department, South 3608 Davison Boulevard, Spokane, Washington 99204; telephone (509) 455–8872. This information also may be examined at the Rules Docket at the address below. Send comments on the

proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–04–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

**FOR FURTHER INFORMATION CONTACT:** Mr. William A. Swope, Aerospace Engineer, Seattle Aircraft Certification Office, 1601 Lind Avenue, S.W., Renton, Washington 98055–4056; telephone (206) 227–2589.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–04–AD." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–04–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**Discussion**

AD 92–13–01, Amendment 39–8270 (57 FR 23135, June 2, 1992), currently requires inspecting the nose landing gear (NLG) drag brace assembly for corrosion on certain Aerostar Aircraft Corporation (Aerostar) PA–60–600 (Aerostar 600) and PA–60–700 (Aerostar 700) series airplanes, and replacing any corroded components. It also requires replacing the existing spring and piston with new corrosion-resistant parts. These actions are accomplished in accordance with Aerostar Service Bulletin (SB) No. 600–121, dated September 12, 1991.

Since issuing AD 92–13–01, the FAA has received several reports of frozen moisture in the cylinder of the over-center release system, which has led to nose gear collapse on airplanes in compliance with AD 92–13–01. The actions required by this AD are intended to detect and correct any internal corrosion associated with water in the NLG cylinder and eliminate subsequent failure of the piston and return spring. However, moisture is still accumulating in the NLG cylinder, and subsequently, this moisture freezes on airplanes that are operated in below-freezing temperatures. Frozen moisture within the cylinder prevents the NLG from going to the over-center down and locked position.

In order to prevent accumulation of water within the un-pressurized portion of the NLG cylinder, Aerostar has redesigned the cylinder as part of a new NLG drag link assembly. This cylinder utilizes a double acting piston where oil pressure is now used to return the piston as well as to extend it. A strengthened drag brace is also part of this assembly.

Aerostar has issued SB No. 600–128, dated January 10, 1994, which references Kit No. 045–001 (Service Kit No. SB600–128), Drawing No. 89414, Rev. N/C, dated December 28, 1993. This kit specifies procedures for installing this new improved NLG drag link assembly, part number (P/N) 450563–501.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) the existing drag link assembly should be replaced with this new assembly; and (2) AD action should be taken to prevent failure of the NLG caused by frozen moisture in the cylinder, which could lead to nose gear collapse and damage to the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Aerostar PA–60–600 (Aerostar 600) and PA–60–700 (Aerostar 700) series airplanes of the same type design, the proposed AD would supersede AD 92–13–01 with a new AD that would require replacing the existing NLG drag link assembly, P/N 450563–1, with a new assembly of improved design, P/N 450563–501. The proposed actions would be accomplished in accordance with the instructions to Aerostar Kit No. 045–001 (Service Kit No. SB600–128), Drawing No. 89414, Rev. N/C, dated December 28, 1993.

The FAA estimates that 700 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 5 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1,500 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,242,500. This figure is based on the assumption that no affected airplane operator has accomplished the proposed action. The FAA believes that numerous operators have already incorporated the modification referenced in this proposed AD.

In addition, AD 92–13–01 requires installing a new spring and piston. The new NLG drag link assembly includes the improved design piston and spring. Aerostar will give a $96 credit for the piston and spring installed as required by AD 92–13–01. Aerostar has shipped 362 of these piston and spring kits. Based on these figures, the cost referenced above would be reduced by $34,752 (362 airplanes×$96) from $1,242,500 to $1,207,748.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing AD 92–13–01, Amendment 39–8270 (57 FR 23135, June 2, 1992), and by adding a new airworthiness directive to read as follows:

**Aerostar Aircraft Corporation:** Docket No. 94–CE–04–AD. Supersedes AD 92–13–01, Amendment 39–8270.

*Applicability:* The following model and serial numbered airplanes, certificated in any category:

| Model | Serial Nos. |
|---|---|
| *PA–60–600 (Aerostar 600) | 60–0001–003 through 60–0608–7961195. |
| PA–60–600 (Aerostar 600) | 60–0614–7961196 through 60–0933–8164262. |
| *PA–60–601 (Aerostar 601) | 61–0001–004 through 60–0605–7962136. |
| PA–60–601 (Aerostar 601) | 61–0611–7962137 through 61–0880–8162157. |
| *PA–60–601P (Aerostar 601P) | 61P–0157–001 through 61P–0610–7963274. |
| PA–60–601P (Aerostar 601P) | 61P–0612–7963275 through 61P–0859–8163455. |
| PA–60–602P (Aerostar 602P) | 62P–0750–8165001 through 60–8365021. |
| PA–60–700P (Aerostar 700P) | 60–8423001 through 60–8423025. |

*=that have been converted to Wiebel nose gear system (Option No. 199)

**Note 1:** The manufacturing and ownership rights of the affected model airplanes were previously owned by the Piper Aircraft Corporation, but these rights were recently transferred to the Aerostar Aircraft Corporation.

*Compliance:* Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the nose landing gear (NLG) caused by frozen moisture in the cylinder, which could lead to nose gear collapse and damage to the airplane, accomplish the following: (a) Replace the existing NLG drag link assembly, P/N 450563–1, with a new assembly of improved design, P/N 450563–501, in accordance with the instructions to Aerostar Kit No. 045–001 (Service Kit No. SB600–128), Drawing No. 89414, Rev. N/C, dated December 28, 1993.

(b) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Aerostar Aircraft Corporation, Customer Service Department, South 3608 Davison Boulevard, Spokane, Washington 99204; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment supersedes AD 92–13–01, Amendment 39–8270.

Issued in Kansas City, Missouri, on March 28, 1994.

**Barry D. Clements,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 94–7788 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 91 and 135

## DEPARTMENT OF THE INTERIOR

### National Park Service

### 36 CFR Parts 1, 2, 3, 4, 5, 6, and 7

**[Docket No. 27643; Notice No. 94–4]**

### Overflights of Units of the National Park System

**AGENCIES:** National Park Service (NPS), Interior and Federal Aviation Administration (FAA), DOT.

**ACTION:** Advance Notice of Proposed Rulemaking (ANPRM).

**SUMMARY:** This document corrects an error to an ANPRM, on "Overflights of Units of the National Park System", which was published on Thursday, March 17, 1994 (59 FR 12740). The notice No. is incorrect.

**FOR FURTHER INFORMATION CONTACT:**

Dave Bennet, Office of Chief Counsel, AGC–600, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3473, or Michael M. Tiernan, Office of the Solicitor, Department of the Interior (DOI), 18th and C Streets NW., Washington, DC 20240, telephone (202) 208–7597.

**SUPPLEMENTARY INFORMATION:** FR Doc. 94–6216, which was published on March 17, 1994, (59 FR 12740), in the first column, in the Heading next to "Docket No. 27643", change the notice number to read "94–5".

**Donald P. Byrne,**

*Manager, Regulations Division, Office of Chief Counsel.*

[FR Doc. 94–7653 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter VI

### Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee; Meeting

**AGENCY:** Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee, Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the date and location of the forthcoming meeting of the Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee. This notice also describes the functions of the committee. Notice

of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATES:** April 21–22, 1994 from 9 a.m. to 5 p.m.

**ADDRESSES:** The Marriott Fairview Park, 3111 Fairview Park Drive, Falls Church, VA (703) 849–9400.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Peck, Office of the Assistant for Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4082, ROB–3), Washington, DC 20202–5100, Telephone: (202) 708–5547. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Guaranty Agency Reserves Negotiated Rulemaking Advisory Committee is established by sections 422 and 457 of the Higher Education Act of 1965, as amended by the Student Loan Reform Act of 1993 (Pub. L. 103–66;20 U.S.C. 1087g). The Committee is also established in accordance with the provisions of the Negotiated Rulemaking Act (Pub. L. 101–648, as amended; 5 U.S.C. 561). The advisory Committee is established to provide advice to the Secretary on the standards, criteria, procedures, and regulations governing advances for reserve funds of State and nonprofit private loan insurance programs. These standards, criteria, procedures and regulations will implement section 422 of the Higher Education Act of 1965, as amended by the Student Loan Reform Act of 1993 beginning with the academic year 1995–1996 (20 U.S.C. 1072).

The meeting is open to the public. The agenda will include the following items:

—Revisit Section 628.410.
—New Regulation Under Section 422(g)(1)(a).

Records are kept of all committee proceedings and are available for public inspection at the Office of the Assistant Secretary for Postsecondary Education, Room 4082, ROB–3, 7th and D Streets SW., Washington, DC from the hours of 9 a.m. and 5 p.m. weekdays, except Federal holidays.

Dated: March 28, 1994.

**David A. Longanecker,**

*Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education.*

[FR Doc. 94–7736 Filed 3–31–94; 8:45 am]

BILLING CODE 4000–01–M

**34 CFR Chapter VI**

## Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee; Meeting

**AGENCY:** Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee, Department of Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the date and location of the forthcoming meeting of the Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee. This notice also describes the functions of the committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATES:** April 18–20, 1994 from 9 a.m. to 5 p.m.

**ADDRESSES:** The Marriott Fairview Park, 3111 Fairview Park Drive, Falls Church, VA. (703) 849–9400.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Peck, Office of the Assistant Secretary for Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (room 4082, ROB–3), Washington, DC 20202–5100, Telephone: (202) 708–5547. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 am and 8 pm, Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Direct Student Loan Regulations Negotiated Rulemaking Advisory Committee is established by sections 422 and 457 of the Higher Education Act of 1965, as amended by the Student Loan Reform Act of 1993 (Pub. L. 103–66; 20 U.S.C. 1087g). The Committee is also established in accordance with the provisions of the Negotiated Rulemaking Act (Pub. L. 101–648, as amended; 5 USC 561). The advisory Committee is established to provide advice to the Secretary on the standards, criteria, procedures, and regulations governing the Direct Student Loan Program beginning with academic year 1995–1996. The Direct Student Loan Program is authorized by the Student Loan Reform Act of 1993. The Act authorizes the Secretary of Education to enter into agreements with selected institutions of higher education. These agreements will enable the institutions to originate loans to eligible students and eligible parents of such students.

The meeting is open to the public. The agenda will include the following items:

—Review and Revise Language from March Meeting on Subpart B (Borrower Provisions).
—Revisit Income Contingent Repayment Provisions.
—Section 685.208 (Federal Direct Consolidation Loans).
—Subpart C (Requirements, Standards and Payments for Direct Loan Program Schools).

Records are kept of all Committee proceedings and are available for public inspection at the Office of the Assistant Secretary for Postsecondary Education, room 4082, ROB–3, 7th and D Streets SW., Washington, DC from the hours of 9 a.m. and 5 p.m. weekdays, except Federal holidays.

Dated: March 28, 1994.

**David A. Longanecker,**

*Assistant Secretary, Office of Postsecondary Education, U.S. Department of Education.*

[FR Doc. 94–7737 Filed 3–31–94; 8:45 am]

BILLING CODE 4000–01–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

**44 CFR Parts 59, 60, 64, 65, 70, and 75**

**RIN 3067–AC17**

## National Flood Insurance Program; Insurance Coverage and Rates, Criteria for Land Management, Use, Identification, and Mapping of Flood Control Restoration Zones

**AGENCY:** Federal Insurance Administration, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would establish a new flood insurance rate zone for areas designated as flood control restoration zones on National Flood Insurance Program maps. It would also establish minimum floodplain management requirements and would provide regulatory guidance for implementing statutory requirements, including procedures to identify and map areas as flood control restoration zones.

The intent of the proposed rule is to permit communities to regulate development through minimum floodplain management requirements and to use flood insurance rates appropriate to the temporary nature of flood hazards during the period when a flood protection system no longer provides 100-year flood protection until it is restored.

**DATES:** We invite comments, which we must receive on or before May 16, 1994.

**ADDRESSES:** Please send any comments to the Rules Docket Clerk, Office of the

General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Division Director, Hazard Identification and Risk Assessment Division, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: This proposed rule would establish a new flood insurance rate zone, Zone AR, for areas designated as flood control restoration zones on National Flood Insurance Program maps. It would establish minimum floodplain management requirements and would provide regulatory guidance for implementing the statutory requirements of section 928 of Public Law 102–550, 42 U.S.C. 4014(f), including procedures for identification and mapping of areas as flood control restoration zones.

Required by section 928 of the Housing and Community Development Act of 1992, 42 U.S.C. 4014(f), which amended section 1307 of the National Flood Insurance Act of 1968, the flood control restoration zone would be applied to areas of a community affected by the decertification of a Federal flood protection system which previously provided 100-year or greater flood protection. Where that level of protection is in the process of being fully restored, this proposed rule would apply flood insurance rates that are appropriate given the temporary nature of the flood hazard and would permit a community participating in the National Flood Insurance Program to regulate development in affected areas by applying minimum floodplain management requirements.

Proposed amendments to the National Flood Insurance Program criteria for mapping and floodplain management would apply where (1) Communities are in the process of restoring a flood protection system(s) constructed using Federal funds, (2) FEMA previously had accredited the flood protection system(s) in those communities as providing 100-year frequency flood protection but the system(s) no longer does so, and (3) such system(s) has been decertified by a Federal agency having flood protection design and construction responsibility.

Under current procedures, a determination that a flood protection system no longer provides 100-year flood protection results in the revision of National Flood Insurance Program maps to show special flood hazard areas and to establish base flood elevations that reflect the increased flood risk in the areas previously considered protected. The identification of new areas of special flood hazard which were previously protected requires floodplain management measures, flood insurance coverage and premium rates that reflect the increased flood risk.

Where the community is restoring a minimum 100-year level of flood protection, these proposed regulations would provide a reasonable restoration period for the community to restore the flood protection system completely, or to achieve adequate progress in the completion of the system as provided for in 44 CFR 61.12 of the National Flood Insurance Program regulations, before the floodplain management requirements of 44 CFR 60.3 (a) through (d) are imposed. The proposed regulations provide that during the restoration period, National Flood Insurance Program maps for a community would be revised to identify the true potential flood risk. During the restoration period, flood insurance coverage would be available at statutorily mandated subsidized rates even though there is an increased flood hazard. Mandatory insurance purchase requirements of the Flood Disaster Protection Act of 1973 would apply in areas designated as AR Zones. The proposed regulations would also require that the community inform permit applicants of the implications of the AR Zone designation and whether the applicant's proposed structure would be elevated or protected to or above the AR base flood elevation.

42 U.S.C. 4014(f) requires that FEMA publish regulations to implement the law on or before October 28, 1994. These proposed regulations are intended to recognize the community's efforts to restore flood protection and to address the temporary nature of the increased flooding hazards during the restoration period. The flood control restoration zone designation is temporary. When adequate progress has been made to restore the system, or the system is restored to provide 100-year level of protection, the proposed rule anticipates that the community will request a determination based on criteria set forth in 44 CFR 61.12, or 44 CFR 65.10 of the National Flood Insurance Program regulations, as appropriate.

The Act sets three criteria by which a community can be considered to be in the process of restoring a flood protection system. The proposed regulations elaborate on these criteria and would establish specific procedures and information needed for the community's application for designation of a flood control restoration zone. The information would include a schedule for restoration of the flood protection system. Failure to restore the flood protection system completely, or to achieve adequate progress in the completion of the system as provided for in 44 CFR 61.12 within the restoration period provided in these proposed regulations would result in the removal of the flood control restoration zone designation and a redesignation of those areas as areas of special flood hazard (Zone A, Zone A1–30, AE, AH, and AO) subject to the applicable floodplain management requirements, insurance coverage, and rates for those zones.

The proposed rule would apply only to flood control restoration zones in riverine floodplains. It would not apply to restoration of flood protection systems in coastal high hazard areas.

The proposed rule would amend 44 CFR 59 to add the definition of a "developed area," and would amend 44 CFR 60 to add a new paragraph to provide floodplain management regulations for flood control restoration areas and other conforming changes. The proposed rule would also amend 44 CFR Part 65 to add a new section that would establish the policy and procedures for remapping areas presently shown on flood insurance rate maps (FIRMs) as having 100-year protection when new evidence indicates that this level of protection no longer exists. Finally, the proposed rule would amend portions of 44 CFR Parts 59, 64, 66, 70, and 75 to add references to flood control restoration zones (Zones AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A) at appropriate locations in the listings of flood insurance zones.

**Definition of "Developed Area"**

Developed areas, as defined in the proposed rule at 44 CFR 59.1, paragraphs (a)(1) and (a)(3), would be those areas generally recognized as "urbanized," that is, they would consist generally of the urban core and surrounding areas having an urban density, and would not include less developed or undeveloped areas, or areas primarily used for agriculture.

44 CFR 59.1(a)(2) would address those isolated areas beyond the urban core which are deemed urbanized because the land is primarily in commercial or industrial uses. Under paragraph (a)(2), the developed area would be contained within the boundary of a single parcel, tract, or lot.

44 CFR 59.1(b) would address those urban fringe areas which, because of their relationship to surrounding

developed areas, should be considered "infill site" areas. For purposes of this proposed rule, an "infill site" is a developed area. 44 CFR 59.1(c) would address "vested rights" under the Act, and would establish criteria for determining a developed area that is planned, permitted, and where construction is underway and infrastructure and structures are being built. Paragraph (c) would recognize areas as "developed" where the investment in the land and infrastructure is substantial and development is underway.

The proposed regulations would amend 44 CFR 59.24(a) to refer to new 44 CFR 60.3(f).

**Mapping and Identification of Flood Control Restoration Zones-Zone AR**

Under a new 44 CFR 65.14, the proposed rule would establish procedures for mapping flood control restoration zones. The rule also would establish eligibility requirements for being in the process of restoring the flood control structure under the Act. The first two criteria required by the Act are relatively clear, that is, that the flood protection system be deemed restorable by a Federal agency, and that the restoration is scheduled to be completed within a designated time period negotiated by the community and FEMA. The proposed rule would establish a maximum 5-year restoration period during which eligible communities would be required to restore the flood protection system completely to provide a minimum 100-year level of protection or to meet the requirements of 44 CFR 61.12 of the National Flood Insurance Program regulations.

These proposed regulations would apply nationally and, therefore, would recognize that the Corps of Engineers and other Federal agencies may be involved in the design and construction of flood protection systems. Thus, these proposed regulations would extend flood control restoration zone eligibility to communities in which the flood protection systems were decertified by the Corps of Engineers and any other Federal agency having design or construction responsibility.

The proposed rule is designed to be consistent with the related A99 Zone designation which may apply in certain areas where adequate progress has been achieved in the completion of a Federal flood protection system as authorized by 42 U.S.C. 4014(e). Existing FEMA regulations, 44 CFR 61.12, limit A99 Zone designation to communities that have made adequate progress on the construction of a flood protection system involving Federal funds. To ensure consistency with FEMA rules regarding A99 Zone designations, this proposed rule would limit eligibility for flood control restoration zone designation to communities where construction and restoration of a flood protection system is a Federally funded project and the existing flood protection system was constructed with Federal funds and has been decertified by a Federal agency responsible for flood protection design or construction.

The third eligibility criterion required in the Act was that the decertified flood protection system still provide a minimum level of flood protection to the community. FEMA proposes that a flood protection system that provides protection against a 35-year or larger flood represents a minimum level of protection during the restoration period. On average, it is estimated that construction which has taken place in the floodplain prior to the establishment of base flood elevations by the National Flood Insurance Program has been built at about the 35–40 year flood elevation level. These structures are typically eligible to obtain flood insurance coverage at a subsidized rate. The Act has specified that the same subsidized rate be applied to structures located in areas designated as AR Zones. Thus, by requiring that the decertified system provide a minimum 35-year level of protection, the National Flood Insurance Program assumes an equivalent degree of risk in insuring structures in AR Zones as it assumes, on average, in insuring other structures which were built before base flood elevations were established.

The proposed regulations would require a community to submit its proposed designation of developed areas to FEMA for approval in the community's application. FEMA must determine that community designations are consistent with the definition in the proposed rule at 44 CFR 59.1. If there is an inadequate submission of an official map or a legal description, the Director shall notify the community. FEMA encourages communities to coordinate with FEMA on designation of developed areas before the community adopts an official map or a legal description of developed areas within the proposed designated flood control restoration zone. The proposed regulations would provide that FEMA not designate flood control restoration zones on the effective flood insurance rate map until all eligibility criteria and application procedures have been met.

The proposed regulations also would require a community to designate and adopt either an official community map or a legal description of those areas within the designated flood control restoration zone (Zones AR, AR/A1–30, AR/AE, AR/AH, AR/AO or AR/A) which are developed areas proposed to be defined at 44 CFR 59.1. The community map or legal description would remain in effect as adopted initially in areas which are designated as flood control restoration zones. Communities would not be allowed to modify the map or legal description to redesignate developed areas while the flood control restoration zone designation remained in effect.

Proposed 44 CFR 65.14 also provides for a "dual" flood insurance rate zone that recognizes that certain areas, delineated as flood control restoration zones, would experience residual flooding after the flood protection system is completely restored due to flooding from other flooding sources that the flood protection system does not contain. This proposed rule would establish "dual" flood insurance zones, known as Zones AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A. These "dual" zones would imply special considerations for floodplain management requirements and for flood insurance rates.

**Floodplain Management and Land Use Requirements in a Flood Control Restoration Zone**

FEMA proposes to apply base flood elevations caused by the failure of the flood protection system in undeveloped areas where the flood depth is greater than five feet. In developed areas the elevation of new construction could not be required to exceed 3 feet above the highest adjacent grade. Under this proposed rule floodplain management requirements of the National Flood Insurance Program would not be applied to substantial improvements of existing structures located in an AR Zone. However, in "dual" zone areas, structures that are substantially improved must be elevated (for residential or non-residential buildings) or floodproofed (for non-residential buildings only) to the underlying AE, AO, AH, or A zone base flood elevation due to the residual flood hazard that will continue to exist after the flood protection system has been completely restored and the AR Zone designation has been removed.

Specifically, the floodplain management requirements seek to accommodate the needs of developed areas while providing a higher level of protection in undeveloped areas. This balance is appropriate where restoration of a project to 100-year or greater level of protection is feasible; where the

project will be completed within a specified time; and where at least a 35-year level of protection is still afforded by the decertified system.

As part of the development of floodplain management regulations, FEMA recognized that once a flood control restoration zone is designated, areas that were previously designated as a B, C, or X Zone may become an AR Zone. Areas that were previously designated Zone A, A1–30, AE, AH, or AO may become a dual zone consisting of AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A. In the dual zone situation, when the flood control restoration zone designation is removed, a residual flood risk still exists; hence the proposed regulations take into consideration the underlying special flood hazard area designation with base flood elevations which would remain in effect once the flood control project is completed.

The proposed rule would amend 44 CFR 60.3 by adding a new paragraph (f). Section 60.3(f)(1) refers to § 60.3 (c)(1) through (14) and (d)(1) through (4) since the community will generally have other flood hazard areas. In addition, development within a flood control restoration zone will have to meet the general floodplain management performance standards for new construction contained in these subsections. No additional construction standards need be established.

Section 60.3(f)(2) requires the community to designate and adopt either an official map or a legal description of those areas within Zone AR, AR/A1–30, AR/AE, AR/AH, AR/AO or AR/A that are designated developed areas.

Section 60.3(f)(3) through (6) establishes the elevation that must be used for applying the floodplain management requirements. Basically, the applicable elevation, the AR base flood elevation, the underlying A, AE, A1–30, AH, AO base flood elevation, or the elevation that is 3 feet above highest adjacent grade must be determined first depending on the location of the structure. Using this elevation, the community must require the standards in § 60.3(c)(1) through (14).

There are no elevation requirements in Zone AR for substantial improvements to existing structures. However, in paragraph (f)(6), all substantial improvements to existing structures must be elevated to at least the underlying (AE, A1–30, AH, AO) base flood elevation. Figure 1 is a diagram showing the decision-making process for determining National Flood Insurance Program requirements in Zones AR, AR/A1–30, AR/AE, AR/AH, AR/AO, and AR/A.

Also, the regulations under § 60.3(f) are likely to be far less complicated when applied to individual communities since communities may not be subject to all of the conditions in § 60.3(f)(3) to (6). For example, a community may be entirely developed and have no underlying AE, AO, AH, or A zones. In this example, the community would be subject only to one of the conditions.

Finally, § 60.3(f)(7) requires the community to notify the permit applicant whether the structure will be elevated or protected to, or above, the base flood elevation determined for the flood control restoration zone (AR base flood elevation). This provision is intended to ensure that the permit applicant is fully aware of the risk of flooding if the structure is not elevated to the AR base flood elevation.

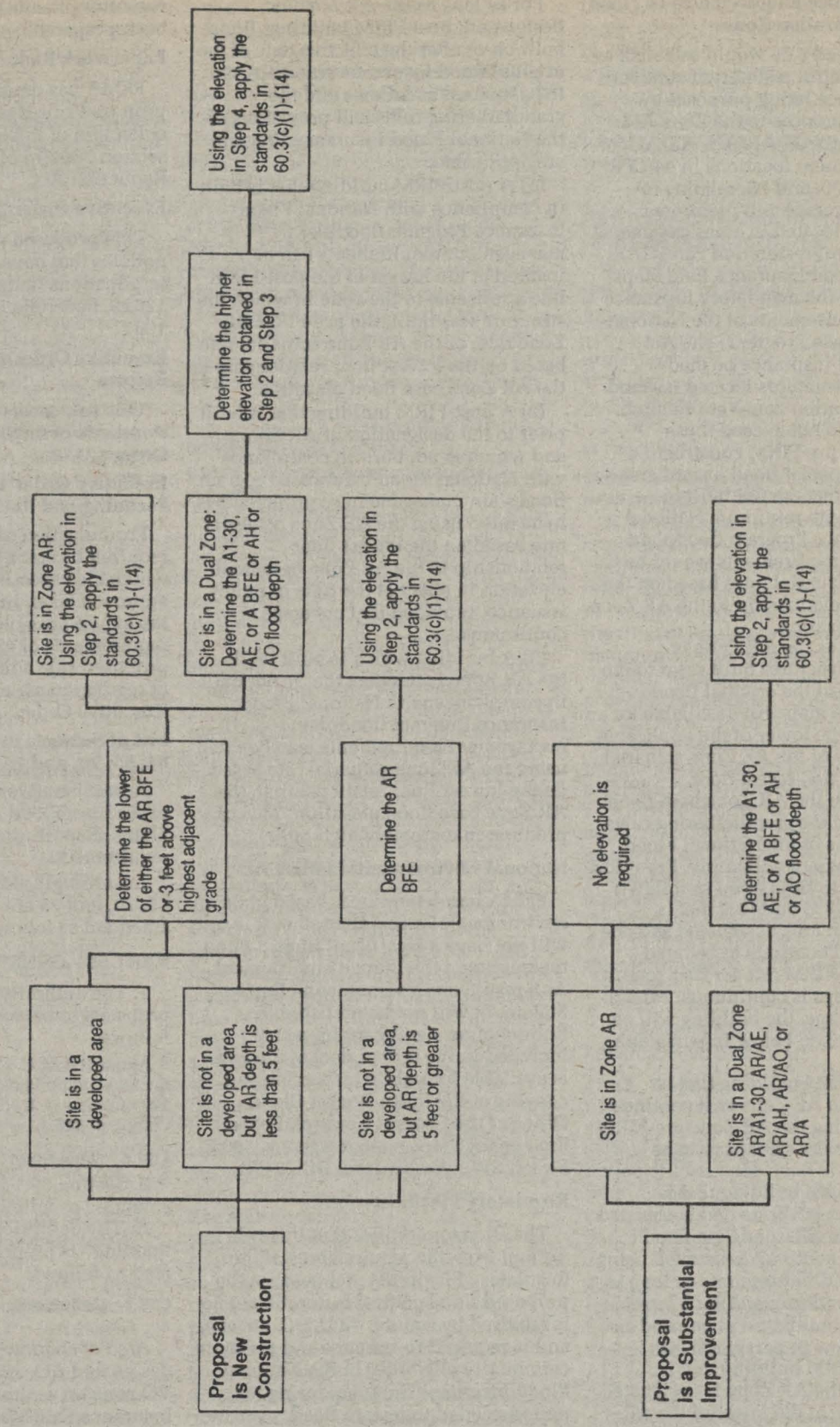
The proposed rule would also amend 44 CFR 60.2(a) to add two references to the new § 60.3(f).

The criteria established in this proposed rule are the minimum standards for the adoption of floodplain management regulations within those areas designated as a flood control restoration zone (Zone AR, AR/A1–30, AR/AE, AR/AH, AR/AO or AR/A). Any community may exceed the minimum standards by adopting more restrictive requirements.

BILLING CODE 6718-03-P

Figure 1

**Decision-Making Process for Determining NFIP Requirements in Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO, and AR/A**




BILLING CODE 6718-03-C

**Flood Insurance Requirements in Flood Control Restoration Zones**

The proposed rule would establish a new flood control restoration zone for flood insurance rating purposes by including references to the Zone AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A at pertinent locations in 44 CFR parts 59, 64, 70, and 75, relating to insurance coverage and premiums.

Structures located in areas designated as flood control restoration zones (AR Zones) on Flood Insurance Rate Maps are subject to the mandatory insurance purchase requirements of the National Flood Insurance Program. The Act specified that insurance be made available to structures located in flood control restoration zones at premium rates which do not exceed those applicable to pre-FIRM construction located in a special flood hazard area.

Structures that are not built in compliance with minimum National Flood Insurance Program floodplain management requirements would be rated using actuarial rates based on the lowest floor relationship to the AR Zone base flood elevation.

For as long as the AR Zone is designated, structures built prior to the effective date of the original flood insurance rate map will be eligible for insurance at the lower of the applicable pre-FIRM rate or the AE Zone actuarial rate based on the lowest floor relationship to the AR Zone base flood elevation, and the grandfathering rules and provisions of the National Flood Insurance Program will apply. Pre-FIRM buildings are to be insured as follows:

(1) A pre-FIRM building that is currently in an area designated as Zone B, C, or X will continue to be rated using the pre-FIRM rate for that zone, as long as coverage is continuous. After a lapse in coverage, the building will be rated as described below in paragraph (4).

(2) A pre-FIRM building that is currently in an AE Zone will continue to be rated using the AE Zone pre-FIRM rate. Coverage does not have to be continuous.

(3) A pre-FIRM building that is currently in an AE Zone and is elevated to or above the AE Zone base flood elevation can continue to be rated using that elevation difference rate as long as coverage is continuous. After a lapse in coverage, the building will be rated as described below in paragraph (4).

(4) A pre-FIRM building that is insured after the AR Zone is designated can be insured at the lower of the AE Zone pre-FIRM rate or the AE Zone actuarial rate based on the lowest floor relationship to the AR Zone base flood elevation.

For as long as the AR Zone is designated, post-FIRM buildings (those built on or after the effective date of the original flood insurance rate map), are to be insured as follows and the grandfathering rules and provisions of the National Flood Insurance Program are applicable:

(1) A post-FIRM building that is built in compliance with National Flood Insurance Program floodplain management requirements can be insured at the lowest of the post-FIRM rate applicable to the zone in which the structure was built, the pre-FIRM AE Zone rate, or the AE Zone actuarial rate based on the lowest floor relationship to the AR Zone base flood elevation.

(2) A post-FIRM building that is built prior to the designation of AR Zones and which is not built in compliance with National Flood Insurance Program floodplain management requirements is to be rated using the AE Zone actuarial rate based on the lowest floor relationship to the AE Zone base flood elevation in effect at the time of policy issuance, provided that coverage is continuous.

(3) A building which is built while the AR Zone is in effect that is not built in compliance with National Flood Insurance Program floodplain management requirements is to be rated using the AE Zone actuarial rate based on the lowest floor relationship to the AR Zone base flood elevation. This can produce an extremely high rate.

**National Environmental Policy Act**

FEMA has determined, based upon an environmental assessment, that this rule will not have a significant impact upon the quality of the human environment. As a result, an Environmental Impact Statement will not be prepared. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**Regulatory Flexibility Act**

The Director certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because the proposed flood control restoration zone is required by statute, 42 U.S.C. 4014(f), and is required to enhance and maintain community eligibility in the National Flood Insurance Program during the period needed to restore flood protection systems to provide a minimum 100-year level of protection required for accreditation on National Flood Insurance Program maps. A regulatory flexibility analysis has not been prepared.

**Paperwork Reduction Act**

FEMA has determined that this proposed rule does not contain a collection of information as described in section 3504(h) of the Paperwork Reduction Act.

**Executive Order 12612, Federalism**

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

**Executive Order 12866, Regulatory Planning and Review**

Promulgation of this proposed rule is required by statute, 42 U.S.C. 4014(f), which also specifies the regulatory approach taken in the proposed rule. To the extent possible under the statutory requirements of 42 U.S.C. 4014(f), this proposed rule adheres to the principles of regulation as set forth in this Executive Order.

**List of Subjects in 44 CFR Parts 59, 60, 64, 65, 70, and 75**

Administrative practice and procedure, Flood insurance, Flood plains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR parts 59, 60, 64, 65, 70, and 75 are proposed to be amended as follows:

## PART 59—GENERAL PROVISIONS

1. The authority citation for part 59 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

**§ 59.1 [Amended]**

2. Section 59.1 is proposed to be amended as follows:

A. The definition of "Area of shallow flooding" is proposed to be revised to read as follows:

**§ 59.1 Definitions.**

* * * * *

*Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path

of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

* * * * *

B. The definition of "Area of Special Flood Hazard" is proposed to be revised to read as follows:

**§ 59.1 Definitions.**

* * * * *

*Area of special flood hazard* is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1–30, AE, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1–30, VE, or V. For purposes of these regulations, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard".

* * * * *

C. The definition of "Special Hazard Area" is proposed to be revised to read as follows:

**§ 59.1 Definitions.**

* * * * *

*Special hazard area* means an area having special flood, mudslide (i.e., mudflow), and/or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map as Zone A, AO, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1–30, VE, V, M, or E.

D. A new definition, "developed area," is proposed to be added after "Deductible" and before "Development" to read as follows:

**§ 59.1 Definitions.**

* * * * *

*Developed area* means an area of a community that is:

(a) A primarily urbanized, built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and

(1) Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

(2) Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

(3) Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time designation is adopted.

(b) An undeveloped single parcel, tract, or lot of less than 20 acres that is contiguous on at least three sides to areas meeting the criteria of paragraph (a) at the time the designation is adopted.

(c) A subdivision that is a minimum of 20 contiguous acres meeting the density criteria in paragraph (a)(3) that has obtained all necessary government approvals, provided that the actual start of construction of residential structures has occurred on at least 10 percent of the lots at the time the designation is adopted and construction is underway.

* * * * *

3. Section 59.24(a) is proposed to be revised to read as follows:

**§ 59.24 Suspension of community eligibility.**

(a) A community eligible for the sale of flood insurance shall be subject to suspension from the Program for failing to submit copies of adequate flood plain management regulations meeting the minimum requirements of paragraph (b), (c), (d), (e) or (f) of § 60.3 or paragraph (b) of § 60.4 or § 60.5, within six months from the date the Director provides the data upon which the flood plain regulations for the applicable paragraph shall be based. Where there has not been any submission by the community, the Director shall notify the community that 90 days remain in the six month period in order to submit adequate flood plain management regulations. Where there has been an inadequate submission, the Director shall notify the community of the specific deficiencies in its submitted flood plain management regulations and inform the community of the amount of time remaining within the six month period. If, subsequently, copies of adequate flood plain management regulations are not received by the Director, he shall, no later than 30 days before the expiration of the original six month period, provide written notice to the community and to the state and assure publication in the **Federal Register** under part 64 of this subchapter, of the community's loss of eligibility for the sale of flood insurance, such suspension to become effective upon the expiration of the six month period. Should the community remedy the defect and the Director receive copies of adequate flood plain management regulations within the notice period, the suspension notice shall be rescinded by the Director. If the Director receives notice from the State that it has enacted adequate flood plain management regulations for the community within the notice period, the suspension notice shall be rescinded by the Director. The community's eligibility shall remain terminated after suspension until copies of adequate flood plain management regulations have been received and approved by the Director.

* * * * *

## PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

4. The authority citation for part 60 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

5. Section 60.2(a) is proposed to be revised to read as follows:

**§ 60.2 Minimum compliance with flood plain management criteria.**

(a) A flood-prone community applying for flood insurance eligibility shall meet the standards of § 60.3(a) in order to become eligible if a FHBM has not been issued for the community at the time of application. Thereafter, the community will be given a period of six months from the date the Director provides the data set forth in § 60.3(b), (c), (d), (e) or (f), in which to meet the requirements of the applicable paragraph. If a community has received a FHBM, but has not yet applied for Program eligibility, the community shall apply for eligibility directly under the standards set forth in § 60.3(b). Thereafter, the community will be given a period of six months from the date the Director provides the data set forth in § 60.3 (c), (d), (e) or (f) in which to meet the requirements of the applicable paragraph.

* * * * *

6. Section 60.3(f) is proposed to be added to read as follows:

**§ 60.3 Flood plain management criteria for flood-prone areas.**

* * * * *

(f) When the Director has provided a notice of final base flood elevations within Zones A1–30 or AE on the community's Flood Insurance Rate Map, and, if appropriate, has designated AH zones, AO zones, A99 zones, and A zones on the community's Flood Insurance Rate Map, and has identified flood protection restoration areas by designating Zones AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A, the community shall:

(1) Meet the requirements of paragraphs (c)(1) through (14) and (d)(1) through (4) of this section; and

(2) Adopt the official map or legal description of those areas within Zones

AR, AR/A1–30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in § 59.1 in accordance with the eligibility procedures under § 65.14.

(3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is five feet or less,

(i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade, and

(ii) Using this elevation, require the standards of paragraphs (c)(1) through (14).

(4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR flood depth is greater than 5 feet,

(i) Determine the AR base flood elevation, and

(ii) Using that elevation require the standards of paragraphs (c)(1) through (14).

(5) For all new construction of structures in areas within Zone AR/A1–30, AR/AE, AR/AH, AR/AO, and AR/A,

(i) Determine the applicable elevation for Zone AR from paragraphs (f)(3) and (4) of this section,

(ii) Determine the base flood elevation or flood depth for the underlying A1–30, AE, AH, AO and A Zone, and

(iii) Using the higher elevation from paragraphs (f)(5)(i) and (ii) of this section require the standards of paragraphs (c)(1) through (14) of this section.

(6) For all substantial improvements to existing construction within Zones AR/A1–30, AR/AE, AR/AH, AR/AO, and AR/A,

(i) Determine the A1–30 or AE, AH, AO, or A Zone base flood elevation, and

(ii) Using this elevation apply the requirements of paragraphs (c)(1) through (c)(14) of this section.

(7) Notify the permit applicant that the area has been designated as an AR, AR/A1–30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

## PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

7. The authority citation for part 64 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

8. Section 64.3 is proposed to be amended as follows: An "AR" entry is added in the chart in § 64.3(a)(1) after the "AH" entry and paragraph (b) is revised to read as follows:

**§ 64.3 Flood Insurance Maps.**

(a) * * *

(1) * * *

| | |
|---|---|
| AR ..... | Area of special flood hazard that results from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide a 100-year or greater level of flood protection. |

* * * * *

(b) Notice of the issuance of new or revised FHBMs or Flood Insurance Rate Maps is given in part 65 of this subchapter. The mandatory purchase of insurance is required within designated Zones A, A1–30, AE, A99, AO, AH, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, V1–30, VE, V, VO, M, and E.

* * * *

## PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

9. The authority citation for part 65 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

**§ 65.14 [Redesignated as § 65.15]**

10. Part 65 is proposed to be amended by redesignating § 65.14 as § 65.15.

11. Part 65 is proposed to be amended by adding a new § 65.14 to read as follows:

**§ 65.14 Remapping of areas for which local flood protection systems no longer provide 100-year flood protection.**

(a) *General.* (1) This section describes the procedures to follow and the types of information FEMA requires to designate flood control restoration zones. A community may be eligible to apply for this zone designation if the Director determines that it is engaged in the process of restoring a flood protection system that was:

(i) Constructed using Federal funds,

(ii) Recognized as providing 100-year flood protection on the community's effective Flood Insurance Rate Map, and

(iii) Decertified by a Federal agency responsible for flood protection design or construction.

(2) Where the Director determines that a community is in the process of restoring its flood protection system to provide 100-year minimum flood protection, a Flood Insurance Rate Map will be prepared that designates the temporary flood hazard areas as a flood control restoration zone (Zone AR). Existing Special Flood Hazard Areas shown on the community's effective Flood Insurance Rate Map that are further inundated by Zone AR flooding shall be designated as a "dual" flood insurance rate zone, Zone AR/AE or AR/AH with Zone AR base flood elevations, and AE or AH with base flood elevations and Zone AR/AO with Zone AR base flood elevations and Zone AO with flood depths, or Zone AR/A with Zone AR base flood elevations and Zone A without base flood elevations.

(b) *Limitations.* A community may have a flood control restoration zone designation only once for the purposes of restoring a given flood protection system and must complete restoration of the system or meet the requirements of 44 CFR 61.12 within a specified period, not to exceed five (5) years from the date of submittal of the community's application for designation of a flood control restoration zone. The community may not extend this period. The information specified in this section must be supplied to FEMA by the community as part of its request for designation of a flood control restoration zone.

(c) *Exclusions.* The provisions of these regulations do not apply in a coastal high hazard area as defined in 44 CFR 59.1, including areas that would be subject to coastal high hazards as a result of the decertification of a flood protection system shown on the community's effective Flood Insurance Rate Map (FIRM) as providing 100-year protection.

(d) *Effective date for risk premium rates.* The effective date for any risk premium rates established for Zone AR shall be the effective date of the revised Flood Insurance Rate Map showing AR Zone designations.

(e) *Application and submittal requirements for designation of a Flood Control Restoration Zone.* A community must submit a written request to the Director, signed by the community's Chief Executive Officer, for a flood plain designation of a flood control restoration zone. The request must include a legislative action by the community requesting the designation. The Director will not initiate any action to designate flood control restoration zones without receipt of the formal request from the community that complies with all requirements of this section. The Director reserves the right to request additional information from the community to support or further document the community's formal request for designation of a flood control restoration zone, if deemed necessary. At a minimum, each request must include the following:

(1) A statement whether, to the best of the knowledge of the community's Chief Executive Officer, the flood protection system is currently the subject matter of litigation before any Federal, State or local court or administrative agency, and if so, the purpose of that litigation;

(2) A statement whether the community has previously requested a determination with respect to the same subject matter from the Director, and if so, a statement that details the disposition of such previous request;

(3) A statement from the community and certification by a Federal agency responsible for flood protection design or construction that the existing flood control system shown on the effective Flood Insurance Rate Map was built using Federal funds, that it no longer provides 100-year flood protection, but that it continues to provide at least a 35-year level of protection;

(4) A statement identifying the local project sponsor responsible for restoration of the flood protection system to the 100-year or greater level of flood protection;

(5) A copy of a feasibility study, performed by a Federal agency responsible for flood protection design or construction in consultation with the local project sponsor, which deems that the flood protection system is restorable to a 100-year or greater level of flood protection;

(6) A joint statement from the Federal agency responsible for flood protection design or construction involved in restoration of the flood protection system and the local project sponsor certifying that the design and construction of the flood control system involves Federal funds, and that the restoration of the flood protection system will provide 100-year or greater flood protection,

(7) A restoration plan to return the system to a 100-year or greater level of protection. At a minimum, this plan must:

(i) List all important project elements, such as acquisition of permits, approvals, and contracts and construction schedules of planned features;

(ii) Identify anticipated start and completion dates for each element, as well as significant milestones and dates;

(iii) Identify the date on which "as built" drawings and certification for the completed restoration project will be submitted. This date must provide for a restoration period not to exceed five (5) years from the date of submittal of the community's application for designation of a flood control restoration zone, or;

(iv) Identify the date on which the community will submit a request for a finding of adequate progress that meets all requirements of § 61.12. This date may not exceed five (5) years from the date of submittal of the community's application for designation of a flood control restoration zone;

(8) An official map of the community or legal description, with supporting documentation, that the community will adopt as part of its floodplain management measures, which designates developed areas as defined in § 59.1 and as further defined in § 60.3(f).

(f) *Review and response by the Director.* The review and response by the Director shall be in accordance with procedures specified in § 65.9.

(g) *Requirements for maintaining designation of a flood control restoration zone.* During the restoration period, the community and the cost-sharing Federal agency must certify annually to the FEMA Regional Office having jurisdiction that the restoration will be completed in accordance with the restoration plan within the time period specified by the plan. In addition, the community and the Federal agency will update the restoration plan and will identify any permitting or construction problems that will delay the project completion from the restoration plan previously submitted to the Director. The FEMA Regional Office having jurisdiction will make an annual assessment and recommendation to the Director as to the viability of the restoration plan and will conduct periodic on-site inspections of the flood protection system under restoration.

(h) *Criteria for removing flood control restoration zone designation due to adequate progress or complete restoration of the flood protection system.* At any time during the restoration period, the community may provide written evidence of certification from a Federal agency having flood protection design or construction responsibility that the necessary improvements have been completed and that the system has been restored to provide a minimum 100-year level of protection, or may submit a request for a finding of adequate progress that meets all requirements of § 61.12. If the Director determines that adequate progress has been made, FEMA will revise the zone designation from a flood control restoration zone designation to Zone A99. After the improvements have been completed and certified by a Federal agency as providing a minimum 100-year level of protection, FEMA will revise the Flood Insurance Rate Map to reflect the completed flood control system.

(i) *Criteria for removing flood control restoration zone designation due to non-compliance with the restoration schedule or as a result of a finding that satisfactory progress is not being made to complete the restoration.* At any time during the restoration period, should the Director determine that satisfactory progress is not being made to restore complete flood protection by the flood protection system in accordance with the restoration plan, or that there is sufficient cause to find that the restoration will not be completed in accordance with the time-frame specified in the restoration plan, the Director shall notify the community and the responsible Federal agency of that determination. Based on the Director's determination, the Director shall revise the Flood Insurance Rate Map, removing the flood control restoration zone designations and redesignating those areas as Zone A1–30, AE, AH, AO, or A.

## PART 70—PROCEDURE FOR MAP CORRECTION

12. The authority citation for part 70 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

13. Section 70.1 is proposed to be revised to read as follows:

### § 70.1 Purpose of part.

The purpose of this part is to provide an administrative procedure whereby the Director will review the scientific or technical submissions of an owner or lessee of property who believes his property has been inadvertently included in designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, and V Zones, as a result of the transposition of the curvilinear line to either street or to other readily identifiable features. The necessity for this part is due in part to the technical difficulty of accurately delineating the curvilinear line on either a Flood Hazard Boundary Map or Flood Insurance Rate Map. These procedures shall not apply when there has been any alteration of topography since the effective date of the first National Flood Insurance Program map (i.e., Flood Hazard Boundary Map or Flood Insurance Rate Map) showing the property within an area of special flood hazard. Appeals in such circumstances are subject to the provisions of part 65 of this subchapter.

14. Section 70.3(a) is proposed to be revised to read as follows:

**§ 70.3 Right to submit technical information.**

(a) Any owner or lessee of property (applicant) who believes his property has been inadvertently included in a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, and V Zones on a Flood Hazard Boundary Map or a Flood Insurance Rate Map, may submit scientific or technical information to the Director for the Director's review.

* * * * *

15. Paragraphs (a) and (b) of § 70.4 are proposed to be revised to read as follows:

**§ 70.4 Review by the Director.**

(a) The property is within a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone, and shall set forth the basis of such determination; or

(b) The property should not be included within a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone and that the Flood Hazard Boundary Map or Flood Insurance Rate Map will be modified accordingly; or

* * * * *

16. Paragraph (c) of section 70.5 is proposed to be revised to read as follows:

**§ 70.5 Letter of Map Amendment.**

* * * * *

(c) The identification of the property to be excluded from a designated A, AO, A1–30, AE, AH, A99, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1–30, VE, or V Zone.

## PART 75—EXEMPTION OF STATE-OWNED PROPERTIES UNDER SELF-INSURANCE PLAN

17. The authority citation for part 75 is proposed to be revised to read as follows:

**Authority:** 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 3 CFR, 1979 Comp., p. 376.

18. Section 75.1 is proposed to be revised to read as follows:

**§ 75.1 Purpose of part.**

The purpose of this part is to establish standards with respect to the Director's determinations that a State's plan of self-insurance is adequate and satisfactory for the purposes of exempting such State, under the provisions of section 102(c) of the Act, from the requirement of purchasing flood insurance coverage for State-owned structures and their contents in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones, in which the sale of insurance has been made available, and to establish the procedures by which a State may request exemption under section 102(c).

19. Section 75.10 is proposed to be revised to read as follows:

**§ 75.10 Applicability.**

A State shall be exempt from the requirement to purchase flood insurance in respect to State-owned structures and, where applicable, their contents located or to be located in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, provided that the State has established a plan of self-insurance determined by the Director to equal or exceed the standards set forth in this subpart.

20. Paragraphs (a)(4), (a)(5), and (a)(7) of section 75.11 are proposed to be revised to read as follows:

**§ 75.11 Standards.**

(a) * * *

(4) Consist of a self-insurance fund and/or a commercial policy of insurance or reinsurance for which provision is made in statute or regulation and which is funded by periodic premiums or charges allocated for state-owned structures and their contents in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones. The person or persons responsible for such self-insurance fund shall report on its status to the chief executive authority of the State, or to the legislature, or both, not less frequently than annually. The loss experience shall be shown for each calendar or fiscal year from inception to current date based upon loss and loss adjustment expense incurred during each separate calendar or fiscal year compared to the premiums or charges for each of the respective calendar or fiscal years. Such incurred losses shall be reported in aggregate by cause of loss under a loss coding system adequate, as a minimum, to identify and isolate loss caused by flood, mudslide (i.e., mudflow) or flood-related erosion. The Director may, subject to the requirements of paragraph (a)(5) of this section, accept and approve in lieu of, and as the reasonable equivalent of the self-insurance fund, an enforceable commitment of funds by the State, the enforceability of which shall be certified to by the State's Attorney General, or other principal legal officer. Such funds, or enforceable commitment of funds in amounts not less than the limits of coverage which would be applicable under Standard Flood Insurance Policies, shall be used by the State for the repair or restoration of State-owned structures and their contents damaged as a result of flood-related losses occurring in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones.

(5) Provide for the maintaining and updating by a designated State official or agency not less frequently than annually of an inventory of all State-owned structures and their contents within A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E zones. The inventory shall:

(i) Include the location of individual structures;

(ii) Include an estimate of the current replacement costs of such structures and their contents, or of their current economic value; and

(iii) Include an estimate of the anticipated annual loss due to flood damage.

* * * * *

(7) Include, pursuant to § 60.12 of this subchapter, a certified copy of the flood plain management regulations setting forth standards for State-owned properties within A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones.

* * * * *

21. Paragraph (c) of section 75.13 is proposed to be revised to read as follows:

**§ 75.13 Review by the Director.**

* * * * *

(c) Upon determining that the State's plan of self-insurance equals or exceeds the standards set forth in § 75.11 of this subpart, the Director shall certify that the State is exempt from the requirement for the purchase of flood insurance for State-owned structures and their contents located or to be located in areas identified by the Director as A, AO, AH, A1–30, AE, AR, AR/A1–30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1–30, VE, and E Zones. Such exemption, however, is in all cases provisional. The Director shall review the plan for continued compliance with the criteria set forth in this part and may request updated

documentation for the purpose of such review. If the plan is found to be inadequate and is not corrected within ninety days from the date that such inadequacies were identified, the Director may revoke his certification.

Dated: March 28, 1994.

**James L. Witt,**

*Director.*

[FR Doc. 94–7839 Filed 3–31–94; 8:45 am]

BILLING CODE 6718–03–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Remove the Mexican Spotted Owl From the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to remove the Mexican spotted owl (*Strix occidentalis lucida*) from the List of Endangered and Threatened Wildlife. The Service has determined that the petition did not present substantial scientific or commercial information indicating that delisting the Mexican spotted owl may be warranted.

**DATES:** The finding announced in this notice was made on March 25, 1994.

**ADDRESSES:** Information, comments, or questions concerning the petitioned action may be submitted to the Listing Coordinator, Southwest Region, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; or the Field Supervisor, Suite D, 3530 Pan American Highway NE, Albuquerque, New Mexico 87107. The petition, finding, supporting data, and comments will be available for public inspection, by appointment, during normal business hours at the latter address.

**FOR FURTHER INFORMATION CONTACT:** Steve Spangle, Listing Coordinator, at the above Regional Office address (505/766–3972).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 22, 1989, the Service received a petition (listing petition) to list the Mexican spotted owl (*Strix occidentalis lucida*) (MSO) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). The Service published a proposed rule to list the subspecies as threatened on November 4, 1991 (56 FR 56344) (proposed rule). The MSO was listed as a threatened species effective April 15, 1993 (58 FR 14248) (final rule). The primary reasons cited for conferring threatened status on the subspecies included the present or threatened destruction, modification, or curtailment of its habitat or range and the inadequacy of existing regulatory mechanisms. Secondary factors included the potential for catastrophic wildfire and potential competition and/or predation by other raptors, including the great horned owl (*Bubo virginianus*) and red-tailed hawk (*Buteo jamaicensis*).

On August 16, 1993, the Service received a petition (delisting petition) from the Coalition of Arizona/New Mexico Counties for Stable Economic Growth (delisting petitioners) to remove the MSO from the List of Endangered and Threatened Wildlife (delist). Section 4(b)(3)(A) of the Act requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register.**

This finding is based on various documents, including the final rule, the delisting petition, and published and unpublished reports. All of these documents are on file in the Service's Southwest Regional Office and/or the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

The delisting petitioners presented 21 issues that they believed supported delisting the MSO; those issues, as presented in the petition, are addressed below. (The issues were numbered 1–20 in the delisting petition, but two issues received number 9. Those issues are addressed as 9a and 9b below.)

*Issue 1:* The listing of the MSO has created "de facto" critical habitat throughout much of a five-state region.

*Response:* "Critical habitat" consists of areas legally described and designated through a formal rulemaking process. The Service has not yet designated critical habitat for the MSO. The Service's listing and recovery actions, including section 7 consultation, have in no way implied the existence of MSO critical habitat.

*Issue 2:* The Service believes that MSOs are exclusively associated with old-growth.

*Response:* The Service has acknowledged that the owl uses a variety of habitat types, including old growth, but also second growth that provides complex habitat characteristics such as multiple canopy layers, moderate to high canopy closure, large trees, and abundant dead and downed woody material.

*Issue 3:* No information in the administrative record for the listing of the MSO supports the theory that logging, increased predation, or lack of adequate regulation threatens the owl. In fact, the overly restrictive nature of MSO management precludes management of forests to reduce fuel loads and maintain healthy ecosystems.

*Response:* There have been extensive surveys of capable habitat (i.e., habitat thought to be formerly suitable but, due to natural or anthropogenic causes, no longer considered suitable) adjacent to habitat identified as suitable. When owls are located at nest or roost sites, it is almost always in suitable habitat. There are records of owls foraging in recently harvested areas when these areas occur near suitable habitat. There have also been instances where owls have disappeared from areas following timber harvest (Larry Henson, Region 3 Forest Service, *in litt.* 1993). The Service believes that there is adequate evidence that even-age management produces conditions that will not support owls over the long term.

The Service has not maintained that owls cannot survive in forests that have experienced timber harvest. Much of the forest land in New Mexico and Arizona was extensively railroad-logged in the first decades of the twentieth century. Some of these areas, particularly in Lincoln National Forest, now support owls. Many railroad-logged areas in the Gila, Cibola, Santa Fe, Coconino, and Kaibab national forests, however, still do not support MSOs. It appears that in areas where productivity is high, suitable conditions can be restored in less than 100 years, even when the treatments were severe. Other areas, which have been selectively logged, have probably been continuously occupied by owls. The Service accepts that some harvest in second growth may hasten the return of suitable habitat conditions. The Service does not know the extent to which currently occupied habitat can be altered without adverse effects on the owl. The practice of even-age management called for in Region 3 Forest Management Plans has resulted in owls disappearing from previously occupied territories without subsequent

return. The Forest Service is currently revising its Forest Management Plans; however, the revised guidelines have not yet been formally adopted.

Service concern that forest fragmentation will increase predation by red-tailed hawks and great horned owls is based on the knowledge that these species prefer more open habitats. As the owl's habitat opens up under harvest, more great horned owls and red-tailed hawks are expected to occur closer to MSOs. The closer proximity may result in a higher rate of predation.

The Service disagrees that management for the MSO will lead to increased fire risk and unhealthy forests. The Service has recognized the need for active management in order to reduce fuel loading in some areas where past fire suppression has created unnaturally dense stands and high fuel loads.

*Issue 4:* The Service failed to appropriately solicit public and local government participation, which would have provided information to preclude listing, and failed to notify private individuals or organizations known to be affected by the proposed listing, counties in which the owl occurs, and the Republic of Mexico, of the proposal to list the subspecies. The delisting petitioners further claim that the public hearings to solicit public comment were inadequate.

*Response:* The Service went well beyond all statutory requirements in soliciting and considering public comments prior to publication of the final rule. The Service opened a second comment period in addition to the initial 120-day comment period, although only a single 60-day comment period was required. The Service held 6 public hearings (3 in New Mexico, 2 in Arizona, and 1 in Utah) throughout the range of the owl, which were attended by approximately 883 people. Of those, 142 people provided oral or written comments. Although no hearings were held in Colorado or Texas, hearings nearby in Alamogordo and Santa Fe, New Mexico; Cedar City, Utah; and Flagstaff, Arizona, were attended by individuals from neighboring states. People in Colorado and Texas also had ample opportunity to provide written testimony, which is considered equally with oral testimony. Furthermore, it is doubtful that substantive information from those two states that was not considered in the listing decision exists.

Newspaper notices inviting public comment were published for each comment period as follows—20 notices in Arizona, 5 in New Mexico, 3 in Utah, and 2 in Colorado. In addition, more than 400 letters were sent to interested individuals, county governments, and relevant government agencies (including the Mexican Government, via the U.S. Embassy) following publication of the proposed rule. Comments were received from 1,707 agencies, public officials, private organizations, companies, and individuals. The Service believes that the opportunities for public input were adequate.

*Issue 5:* No formal communication was made to the Mexican Government; little or no information is available on the MSO in Mexico; and no scientifically conclusive statement can be made about its occurrence in that country. This is contrary to the requirement that the best scientific and commercial information be used in the listing process (section 4(b)(1)(A) of the Act and 50 CFR 424.14(b)).

*Response:* The Service invited the Mexican Government to comment on the owl's status during the status review, in a letter transmitted by the U.S. Embassy in Laredo, Texas. The Mexican Government responded by letter expressing concern for the species in Mexico. The Service solicited comments on the proposed rule from the Mexican Government via the U.S. Embassy. The Mexican Government was similarly notified of publication of the final rule. The Service agrees that little information is available on the status of the owl in Mexico. Nevertheless, the Service believes that the best scientific and commercial information available was used in making a determination to list the MSO. Communications between the Service and Mexican officials have continued during the recovery planning process, and a Mexican representative has been appointed to the MSO Recovery Team.

*Issue 6:* Only speculation was advanced in the proposed and final rules concerning owl populations in low- and middle-elevation riparian habitat. Organized owl surveys have not been conducted in riparian habitats; if they were conducted, many additional owls would be found.

*Response:* The Service had to rely on historical accounts to find records of MSOs in low- and middle-elevation riparian habitats. As stated in the final rule, MSOs have been found in desert riparian systems in the past, but such habitats have been much reduced. Historic records also exist of owls breeding in desert riparian habitat. The Service speculates that these low-elevation riparian systems also may have served as dispersal corridors, although there are no hard data to support this. The Service also believes that there has been sufficient research in such systems in recent years to demonstrate that MSOs are no more than rarely found in desert riparian systems today. Where montane riparian habitats extend down canyons, they still provide important habitat for MSOs at lower elevations.

*Issue 7:* There was no accounting for drought conditions during the period when owl surveys were conducted, and the drought caused a depression of apparent owl numbers because owls may not breed during drought conditions. The petitioners believed that this would limit responses during surveys.

*Response:* The years 1991 and 1992 were wet years. Monitoring and demographic studies on Coconino and Gila national forests showed high reproductive output, as did monitoring on Lincoln National Forest during those years. During 1990, 18 monitored sites in New Mexico had very low reproduction. Reproduction during 1989, which was not a wet year, was similar to 1991–1992. The Service is not aware of any data that show conclusively that where territorial owls are present during the breeding season, they are less likely to be discovered during calling surveys when they are not breeding. The Service is aware of no data that would indicate that owls do not call during years when they do not breed.

*Issue 8:* The Service miscalculated owl populations.

*Response:* The Service used all available data on known owl occurrences in conjunction with information on the distribution of owl habitat acreage, surveyed habitat, and unsurveyed habitat to estimate the number of owls in the Southwest. The estimate included known owls, plus expected owls based on extrapolation of known owl densities over unsurveyed suitable habitat. The Service believes that the estimate provided in the final rule was reasonable, given the available data.

Additional acres have been surveyed since the status review which produced the number published in the final rule. By the end of 1992, more than 1,500,000 acres of habitat had been surveyed in New Mexico and Arizona national forests. This is nearly half the habitat in New Mexico and Arizona. The following factors were considered in developing estimates of owl populations in Region 3 forests:

1. The number of acres of suitable habitat in each national forest.
2. The acres of suitable habitat surveyed in each forest.
3. The number of management territories (a Forest Service term for MSO areas that fall under special

management guidelines) designated in each forest.

4. Formal monitoring data on occupancy rates in each forest.

The procedure used in making the following estimates is the same one used in the status review, except that the analysis was done for each forest rather than dividing the range into north and south. Because more recent monitoring data have not yet been analyzed, the estimate is based on the occupancy rates through 1990, published in the status review. (Analysis of monitoring data from 1991 through 1993 is currently underway and will be used in the recovery planning process.) The calculations are presented in Table 1 by forest. In Table 1, the management territory number (MT#) equals the minimum number of management territories (Min) in the forest. The maximum number (Max) would be the number expected in all of the suitable habitat in the forest, if owls continue to be found at the present rate. The expected number (Exp) is an average of the minimum and the maximum. The expected number is based on the assumption (supported by Ward *et al.* 1991) that the rate of discovery will decline as surveys continue. Because there were differences in pair occupancy rates for northern New Mexico and southern New Mexico, based on formal monitoring, separate estimates were made for northern New Mexico and Arizona (40 percent pair occupancy), and southern Arizona and New Mexico (68 percent pair occupancy). The estimated number of pairs of owls (# Pairs) is given in Table 1 for each forest. The total number of single owls expected in Forest Service Region 3 is 495.91 and the total number of owls expected is 1,954.47.

TABLE 1.—CALCULATION OF THE NUMBER OF MANAGEMENT TERRITORIES AND PAIRS OF MSOS IN FOREST SERVICE REGION 3

| National forest | Suitable acres | Suitable surveyed | MT# – Min | Max | Exp | # Pairs |
|---|---|---|---|---|---|---|
| Apache/Sitgreaves | 258,000 | 194,000 | 89 | 118 | 104 | 70.50 |
| Carson | 250,000 | 148,000 | 3 | 5 | 4 | 1.61 |
| Cibola | 172,000 | 63,000 | 29 | 79 | 54 | 36.78 |
| Coconino | 356,000 | 167,000 | 124 | 264 | 194 | 132.03 |
| Coronado | 107,000 | 78,000 | 97 | 133 | 115 | 78.22 |
| Gila | 619,000 | 225,000 | 147 | 404 | 276 | 187.48 |
| Kaibab | 63,000 | 60,000 | 4 | 4 | 4 | 1.64 |
| Lincoln | 371,000 | 267,000 | 114 | 158 | 136 | 92.62 |
| Prescott | 133,000 | 10,000 | 10 | 133 | 72 | 48.62 |
| Santa Fe | 476,000 | 110,000 | 32 | 138 | 85 | 34.09 |
| Tonto | 317,000 | 182,000 | 49 | 85 | 67 | 45.68 |
| Total | 3,122,000 | 1,504,000 | 693 | 1,449 | 1,073 | 729.28 |

There are no data available to justify changing the estimates of owl populations on non-Forest Service lands. The status review listed 67 territories in northern New Mexico, 55 territories in southern New Mexico, and 249 territories in Arizona on non-Forest Service lands. If one assumes that occupancy rates on non-Forest Service lands are similar to those in national forests, an estimate of 624 birds on non-Forest Service public and tribal lands in New Mexico and Arizona is derived (56 FR 56344). In 1992 there were an additional 64 birds known from Utah, 14 from Colorado, and 2 from Texas (58 FR 14248), for an estimated total of 2,658 on public and tribal lands in the Southwest U.S. Current estimates for the owl population on private lands in New Mexico and Arizona add another 41 birds for a total of 2,699 MSOs in the United States (see also Issue 15). It should be noted that this does not indicate that owl numbers have increased since 1990, but rather that more complete data provide a higher estimate.

*Issue 9a:* Population estimates have been based on MSOs located during drought conditions, and locating methods were deficient.

*Response:* The Service is required to base listing actions on the best scientific and commercial information available, and the data used at the time of listing constituted the best available data. The revised population estimate given in the response to Issue 8 is believed to be reasonable. (See discussion under Issues 7 and 8.)

*Issue 9b:* Incorrect conclusions were drawn from Ganey and Balda (1989). Only select comments taken out of context were relied upon. This invalidates the positive listing petition finding.

*Response:* Ganey and Balda's (1989) paper was not the only information used in the positive listing petition finding. The Service recognized the limitations of statements made in the paper and believes the information was correctly applied at all stages of the listing process. Although the comments mentioned in the delisting petition were not directly referenced in the Federal Register listing documents, the paper was considered in its entirety and reasonable conclusions were drawn.

*Issue 10:* The Service has used the suitable and capable habitat designations to advance its argument for listing to the detriment of Southwest forest ecosystems. Forest Service figures (Fletcher 1990) for capable habitat are erroneous and were a poor basis on which to identify habitat threats.

*Response:* The Service recognizes that identification of capable habitat can be difficult. However, the Forest Service is the agency best qualified to identify past management and its effects on habitat on its lands. Various sites in the ponderosa pine (*Pinus ponderosa*) type probably varied in quality as owl habitat prior to treatment, which caused them to be labeled "capable" by the Forest Service. Many of these sites were probably suitable owl habitat prior to treatment. More recent Forest Service estimates of suitable habitat (3,122,000 acres) and capable habitat (1,040,000 acres) (Henson, *in litt.* 1993) are similar to the figures provided to the status review team (Fletcher 1990). The figures for suitable habitat were derived by forest and district biologists from stand data bases, aerial photography, satellite data, and ground-truthing. Capable habitat was defined as habitat that had been suitable in the past, but because of natural or human-caused changes was no longer suitable.

There is some confusion regarding the importance of ponderosa pine as an owl

habitat type. Ponderosa pine appears to provide suitable habitat where it occurs in multiple canopy layers with high canopy closure and with abundant dead and downed woody material. These conditions now exist in some forests, and may have been more abundant prior to the extensive railroad-logging at the beginning of the century. The ponderosa pine forest type also appears to provide suitable habitat when it occurs on steep slopes adjacent to rock outcrops and in association with various species of hardwoods. It is often difficult to tell from the available data whether current second-growth pine stands are capable of attaining suitability. The Service believes that the Forest Service acreage figures for suitable and capable habitat in Arizona and New Mexico represent the best scientific data available.

*Issue 11:* The Service has not accurately described the nesting habits of the owl. The owl is an opportunist in regard to nest-site selection. As evidence for this, the petitioners note the owl's frequent use of old nests built by other species, which they claim shows adaptability and survival potential.

*Response:* A lack of suitable nest structures was not discussed as a limiting factor to the MSO population in any listing document. As stated in the final rule, nesting habitat nearly always has a microclimate characterized as a cool, shady, humid site with substantial overhead cover. Thus, it is the loss of these microclimatic conditions, rather than nesting structures, that poses a risk to the MSO. Furthermore, it is unclear why the petitioners believe that use of other raptors' nests implies adaptability or survivability, because all owl species use existing structures for nesting rather than building their own.

*Issue 12:* The decision to list the owl poses a threat to Southwest forest ecosystems. The petitioners state further that the forests are currently in a condition that is considerably more dense than in "pre-European" times, and that this increased density creates fire and insect damage hazards and is detrimental to other species.

*Response:* The Service agrees that many areas are overstocked with trees and may be at risk from fire, insects, and/or disease. That risk was recognized in the final rule. The Service does not agree that managing forests for a well-distributed population of owls will result in adverse conditions for other species. The Service has encouraged forest managers to adopt fire management plans and thinning of overstocked stands to reduce fire hazards and threats from insect pests.

*Issue 13:* Data and studies from other owl subspecies should not be used to make listing determinations.

*Response:* The Service disagrees. The Service is required to use the best scientific and commercial data to determine whether a species should be listed. The Service relied on studies of the conspecific northern (*Strix occidentalis lucida*) and California (*S. o. occidentalis*) spotted owls to supplement available information on the Mexican subspecies. The Service agrees that those data must be applied cautiously and that ecological differences in the habitats of the three subspecies must be taken into account.

*Issue 14:* The term "suitable habitat" is not found in the Act, and the Service should only consider "critical habitat" in habitat discussions. The petitioners assert that, if the species is truly threatened, the final rule should have addressed critical habitat.

*Response:* The term "suitable habitat" is appropriate when assessing the biological status of any species. In fact, any evaluation of a species' status would be incomplete without such a discussion, particularly where habitat loss is cited as a threat to the species. "Critical habitat" is a legal term in the Act, and refers to areas officially designated through a rulemaking procedure. Therefore, the term "suitable" is appropriately used in the "Summary of Factors Affecting the Species" section of the final rule. In the "Critical Habitat" section of the final rule, the Service stated that, although much was known about the habitat requirements of the species, detailed maps necessary for determining critical habitat were not available at the time of listing, and therefore critical habitat was not determinable at that time. The Service has since initiated an effort to obtain the necessary additional information.

*Issue 15:* Private land estimates in the final rule are inaccurate. Private lands are much more extensive than the Service claimed in the final rule. As evidence, the petitioners cite the Colfax Soil and Conservation District Long Range Plan (1981) as stating that privately owned commercial timber covers 656,818 acres in the district.

*Response:* The Service figure of 5,000 acres, cited on page 38 of the status review, was based on known occupied habitat in Arizona and New Mexico. The delisting petitioners are correct in stating that the Service underestimated the extent of habitat on private land.

The Service has calculated acres of suitable habitat on private land from Collins (1989), who provides acreage figures for non-Forest Service land in Arizona, and Van Hooser *et al.* (1993) who provide figures for "private timberland" in New Mexico. In New Mexico, 2,000,000 acres attributed to private ownership includes Native American tribal lands. In New Mexico, tribal timberlands cover 641,278 acres (Steve Haglund, Bureau of Indian Affairs (BIA) New Mexico Area Office, and James Carter, BIA Navajo Area Office, pers. comms. 1993). No owls have been confirmed in Carson National Forest in Taos County or Colfax County, despite extensive surveys. The acreage in Colfax County should therefore not be included as occupied habitat, even though suitable habitat may be present. This leaves 701,904 acres of private timberland in the remainder of New Mexico.

More than 60 percent of New Mexico timberland (421,142 acres) is in the ponderosa pine type. Eleven percent of that (46,326 acres) is stocked at a rate greater than 5,000 board feet per acre (BFA), which is less than the stocking that is usually found in suitable owl habitat. Because there are no figures relating the acreage of suitable habitat on private land, the Service uses this stocking level as indicative of the acreage of suitable habitat in New Mexico. Spruce (*Picea* sp.), white fir (*Abies concolor*), Douglas-fir (*Pseudotsuga menziesii*), and aspen (*Populus tremuloides*) together occupy 16 percent of timberlands in New Mexico, and approximately two-thirds are stocked at greater than 5,000 BFA. This produces a figure of 67,383 acres in these forest types. Thus, in New Mexico there may be as much as 113,709 acres of privately owned suitable timberland supporting spotted owls. This figure probably overestimates suitable owl habitat because it assumes that forests in private ownership have the same likelihood of suitability as forests in public or Native American ownership. This is unlikely, however, because private lands generally occur at lower elevations; thus they are drier and less productive. In addition, suitable owl habitat is likely to have a stocking level greater than 5,000 BFA.

Arizona has 1,317,076 acres of non-reserved timberland in non-Forest Service ownership. In Arizona, Native American tribal lands occupy 1,260,162 acres (Conner *et al.* 1990). This leaves 56,914 acres of timberland in private ownership in Arizona. Approximately 84 percent (47,808 acres) is in ponderosa pine, and 14 percent (7,968 acres) is in Douglas-fir (Collins 1989). References for Arizona (Collins 1989, Conner *et al.* 1990) do not break down acreage by stocking level as was done in New Mexico. Rather, they provide

productivity classes of greater or less than 50 cubic feet per acre per year. This figure may overestimate acreage in suitable habitat even more than stocking level, because it is based on site potential productivity values, rather than actual productivity. Thus, a stand that has been heavily harvested would be included even though low stocking might yield far lower growth (Garrett Blackwell, New Mexico State Forestry, pers. comm. 1993). Because this is the best figure available to estimate owl suitability, the Service is using it to identify potential suitable acreage on private lands in Arizona. Sixteen percent of non-Forest Service ponderosa pine timberland is capable of producing more than 50 cubic feet per acre (7,649 acres). The Service assumes that the proportion of mixed conifer that is suitable will be similar to that in New Mexico (67 percent), which yields an additional 5,259 acres of potential habitat on Arizona private lands. This yields a total of 12,908 acres of potential suitable owl habitat on private land in Arizona. Thus, a more accurate figure of between 125,000 and 130,000 acres of habitat probably exist on private lands in the two states.

Assuming that the acreage is evenly divided between northern and southern New Mexico and Arizona, approximately 63,000 acres occur in the north and a similar acreage in the south. Owls in northern New Mexico and Arizona are found at the rate of one for each 15,092 acres surveyed. Thus approximately four owls would be expected on private land in the northern portions of the two states. In the south, owls are found at the rate of one for every 1,690 acres. This produces an estimated 37 birds. The Service does not believe that the addition of 41 birds from private land is a sufficient increase to justify delisting.

*Issue 16:* The total acreage of suitable habitat has been seriously underestimated by the Service and other agencies.

*Response:* The Service has relied on suitable acreage figures provided by tribes and land-management agencies. The Service continues to believe that those agencies possess the best information available on the status of land under their administration or ownership. The Service critically examined Forest Service and other agency data during preparation of the status review, proposed rule, and final rule, and believes that these figures constitute the best available information. (See Response to Issue 8.)

*Issue 17:* The evidence presented in the final rule is designed to protect "old-growth" forests, not MSOs. This is outside the intent of the Act, and the Service is "administratively legislating" both expansion of the Act and the missions of several land-management agencies.

*Response:* In the final rule, the Service noted that owls use old growth where it is available within the species' range, but that they are not limited to old-growth forests. The final rule also pointed out that owls are frequently found in second-growth forests where those forests possess the attributes of suitable habitat (e.g., multiple canopy layers, moderate to high canopy closure). In addition, the final rule noted that owls are found in a variety of habitat types, from mixed conifer forests at high elevations to madrean oak and unforested slick-rock canyons at lower elevations. Further, any discussion of "old growth" is related to how that habitat can support spotted owls. The Service's consideration of old growth and other habitats was essential in determining the status of the MSO.

*Issue 18:* The final rule to list the owl did not provide the data necessary to support listing.

*Response:* The Service disagrees. The decision was based upon the best scientific and commercial data available. The most important factors behind the decision to list were the present and threatened destruction of habitat, possible increases in predation resulting from habitat fragmentation, and the inadequacy of existing regulatory mechanisms.

*Issue 19:* The Service failed to recognize statistical biases in the data regarding the owl, in that most surveys were motivated by timber sales.

*Response:* The Service clearly addressed this bias in the status review, the proposed rule, and the final rule.

*Issue 20:* The scientific and commercial information did not support a positive listing petition finding, nor, after the status review, a finding that listing was warranted.

*Response:* The Service disagrees. The listing petition pointed out that forest plans called for additional conversion of owl habitat from suitable to capable, which, added to ongoing conversion, would result in the likely extinction of the subspecies. The protection offered by Forest Service Region 3 Interim Directive Number 2 (ID No. 2) was not considered to be adequate. The Service continues to believe, as do Forest Service researchers in the Northwest (Thomas *et al.* 1990) and California (Verner *et al.* 1992), that protection only of single territories, as proposed in ID No. 2, would inevitably lead to the extinction of habitat-dependent species. Based on continued and projected destruction of habitat and inadequate regulation, the Service determined that the MSO was likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range.

**Summary of Factors Affecting the Species**

Section 4(a)(1) of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for adding species to or removing species from the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Mexican spotted owl, with reference to the delisting petition, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The delisting petitioners asserted that there is no threatened destruction, modification or curtailment of the owl's habitat or range. However, the final rule pointed out that, at the time of publication, Forest Management Plans still called for implementation of even-age management and steep slope harvest in owl habitat. Although harvest has slowed recently, individual projects have been modified to protect owl habitat, and the Forest Service is currently revising its Forest Management Plans, revised plans have not yet been formally adopted. Owl habitat reduction remains a concern of the Service.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* The delisting petitioners stated that there is no threat from overutilization of the species for commercial, recreational, or educational purposes. The Service agrees; this was the position held by the Service in the final rule.

C. *Disease or predation.* The delisting petitioners stated that there is no threat from disease or predation. The Service remains concerned that opening the canopy in suitable owl habitat will increase contact with red-tailed hawks and great horned owls, species which occur in more open habitats. Increased contact may result in increased predation.

D. *The inadequacy of existing regulatory mechanisms.* The delisting petitioners asserted that existing regulatory mechanisms provide adequate protection for owls. As discussed in Issue 20 above, the Service believes that the Forest Service's ID No. 2 would not provide adequate protection. The Service also notes that

ID No. 2 has expired, and although it is still being implemented, there is no formal directive at this time to protect owl habitat in Forest Service Region 3, where the majority of the population occurs.

E. *Other natural or manmade factors affecting its continued existence.* The delisting petitioners asserted that no other natural or manmade factors threaten the owl. They further asserted that listing may jeopardize the owl because it will prevent the Forest Service from correctly managing forests to reduce threats from wildfire and insect and disease damage. The threat to owl habitat from wildfire has not changed since publication of the final rule. A change in Forest Management Plans that would decrease the threat from timber harvest has not yet been formalized. The Service disagrees with the delisting petitioners that listing itself brings new threats because of reducing the ability to manage for wildfire, insect, and disease threats. The Service encourages the Forest Service to address those threats with a variety of management options.

In conclusion, the Service used the best scientific and commercial information available in all phases of the decision to list the Mexican spotted owl as a threatened species. The Service further believes that the factors for listing the species cited in the final rule have not changed substantially. Therefore, the Service finds that the delisting petitioners did not present substantial information indicating that delisting the MSO may be warranted. Through the recovery planning process, the Service is analyzing all available information in formulating a recovery plan for the MSO. The plan will contain objective, measurable criteria which, when met, could result in delisting the MSO.

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### Author

The primary authors of this notice are Dr. Buck Cully of the New Mexico Ecological Services Field Office, and Steve Spangle of the Southwest Regional Office (see ADDRESSES section).

### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 25, 1994.

**Mollie H. Beattie,**

*Director, Fish and Wildlife Service.*

[FR Doc. 94–7834 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–55–P

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**50 CFR Part 17**

**RIN 1018–AB97**

## Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Public Hearings on Proposed Designation of Critical Habitat for the Louisiana Black Bear

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; public hearings and extension of comment period.

**SUMMARY:** The Fish and Wildlife Service (Service) gives notice that two public hearings will be held on the proposed designation of critical habitat for the Louisiana black bear, *Ursus americanus luteolus*. The Louisiana black bear occupies the Tensas and Atchafalaya River basins with possible remnant numbers in the lower Mississippi River Delta and the bluffs south of Vicksburg, Mississippi. The proposed critical habitat areas are limited to forests within the Tensas and Atchafalaya River basins and south of U.S. Highway 90, west from the lower Atchafalaya River along the coastline to the Vermillion Parish line, north to Highway 14, thence east to U.S. Highway 90. These hearings will allow additional comments on this proposal to be submitted from all interested parties.

**DATES:** The comment period on the proposal is extended through May 25, 1994. The public hearings will be held from 6 to 10 p.m. on May 10, 1994, in West Monroe, Louisiana; and from 6 to 10 p.m. on May 11, 1994, in New Iberia, Louisiana.

**ADDRESSES:** The May 10th hearing will be held at the West Monroe Convention Center, 901 Ridge Avenue, West Monroe, Louisiana; and the May 11th hearing will be held in the auditorium of the New Iberia Senior High School, 1301 E. Admiral Doyle Drive, New Iberia, Louisiana. Written comments and materials should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, suite A, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Wendell A. Neal at the above address (601/965–4900).

**SUPPLEMENTARY INFORMATION:**

### Background

The Endangered Species Act requires the Service to designate critical habitat to the maximum extent prudent and determinable concurrently with listing a species. Although the Service found that designation of critical habitat was not prudent in the proposed rule of June 21, 1990 (55 FR 25341) for listing the Louisiana black bear as threatened, in the final rule listing the Louisiana black bear as threatened, published on January 7, 1992 (57 FR 588), the Service changed its earlier finding to indicate that designation of critical habitat may be prudent, but that it was not then determinable. A proposal to designate three areas as critical habitat was published in the **Federal Register** on December 2, 1993 (58 FR 63560). The actual critical habitat within these areas is limited to forestland.

Section 4(b)(5)(E) of the Endangered Species Act requires that a public hearing be held on proposed designation of critical habitat if requested within 45 days of the proposal's publication in the **Federal Register**. Public hearing requests were received during the allotted time period

from Robert Lamar Boese, the Honorable Bill Tauzin, Pietro L. Pipari, and Henry Stickler. An earlier public hearing was scheduled for March 23, 1994, and announced in the **Federal Register** on March 7, 1994 (59 FR 10607). The comment period was reopened until April 4, 1994. The hearing scheduled for March 23rd was canceled and has been rescheduled, and a second hearing scheduled in West Monroe as the result of a request from the Louisiana Congressional Delegation.

Anyone expecting to make an oral presentation at these hearings is encouraged to provide a written copy of their statement to the hearing officer prior to the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at these hearings or mailed to the Service.

The previous hearing notice reopened the comment period until April 4, 1994. In order to accommodate the presently scheduled public hearings, the Service extends the public comment period. Written comments may now be submitted through May 25, 1994, to the office in the **ADDRESSES** section.

### Author

The primary author of this notice is Wendell A. Neal (See **ADDRESSES** section).

**Authority:** The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1544).

Dated: March 25, 1994.

**James W. Pulliam, Jr.,**

*Regional Director.*

[FR Doc. 94–7790 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–55–M

# Notices

Federal Register
Vol. 59, No. 63
Friday, April 1, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. 94–012–1]**

### Availability of Environmental Assessment and Finding of No Significant Impact

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and a finding of no significant impact for the shipment of an unlicensed veterinary biological product for field testing. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that shipment of the unlicensed veterinary biological product for field testing will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared.

**ADDRESSES:** Copies of the environmental assessment and finding of no significant impact may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the docket number of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jeanette Greenberg, Veterinary Biologics, BBEP, APHIS, USDA, room 571, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; telephone (301) 436–5390; fax (301) 436–8669.

**SUPPLEMENTARY INFORMATION:** A veterinary biological product regulated under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. In order to ship an unlicensed product for the purpose of conducting a proposed field test, a person must receive authorization from the Animal and Plant Health Inspection Service (APHIS).

In determining whether to authorize shipment for field testing of the unlicensed veterinary biological product referenced in this notice, APHIS conducted a risk analysis to assess the product's potential effects on the safety of animals, public health, and the environment. Based on that risk analysis, APHIS has prepared an environmental assessment. APHIS has concluded that shipment of the unlicensed veterinary biological product for field testing will not significantly affect the quality of the human environment. Based on this finding of no significant impact, we have determined that there is no need to prepare an environmental impact statement.

An environmental assessment and finding of no significant impact have been prepared for the shipment of the following unlicensed veterinary biological product for field testing:

| Requester(s) | Product | Field test location(s) |
|---|---|---|
| SyntroVet Incorporated | A live, genetically engineered Newcastle disease-fowlpox vaccine, fowlpox vector. | Gordo, AL; Raleigh, MS; Salisbury, MD; Willacoochee, GA; Bryan, TX. |

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 29th day of March 1994.

**Lonnie J. King,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 94–7817 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–34–P

**[Docket No. 94–021–1]**

### Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that 14 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

**ADDRESSES:** Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW.,

Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect an application are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. You may obtain copies of the documents by writing to the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Foudin, Deputy Director, Biotechnology Permits, BBEP, APHIS, USDA, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

| Application No. | Applicant | Date received | Organisms | Field test location |
|---|---|---|---|---|
| 94–054–01, renewal of permit 93–165–01, issued on 07–12–93. | Upjohn Company | 02–23–94 | Squash plants genetically engineered to express resistance to zucchini yellow mosaic virus and watermelon mosaic virus 2. | Maryland. |
| 94–054–02 | Upjohn Company | 02–23–94 | Squash plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus. | Delaware, New Jersey, Pennsylvania, Virginia. |
| 94–054–03, renewal of permit 93–165–02, issued on 08–12–93. | Upjohn Company | 02–23–94 | Squash plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus. | North Carolina. |
| 94–054–05 | AgrEvo | 02–23–94 | Wheat plants genetically engineered to express tolerance to the phosphinothricin class of herbicides. | Illinois, North Dakota. |
| 94–054–06, renewal of permit 93–090–01, issued on 06–14–93. | AgrEvo | 02–23–94 | Sugar beet plants genetically engineered to express tolerance to the phosphinothricin class of herbicides. | California, Illinois, North Dakota. |
| 93–054–07, renewal of permit 93–049–02, issued on 05–04–93. | University of Idaho | 02–23–94 | Canola plants genetically engineered to express male sterility, male fertility, and tolerance to the phosphino-thricin class of herbicides. | Idaho. |
| 94–055–01 | Upjohn Company | 02–24–94 | Tomato plants genetically engineered to express the nucleocapsid protein from tomato spotted wilt virus (TSWV) for resistance to TSWV. | Georgia. |
| 94–055–02 | Upjohn Company | 02–24–94 | Cucumber plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus. | Michigan. |
| 94–055–03 | Upjohn Company | 02–24–94 | Watermelon plants genetically engineered to express resistance to watermelon mosaic virus 2 and zucchini yellow mosaic virus. | Michigan. |
| 94–055–04, renewal of permit 92–049–02, issued on 06–05–92. | InterMountain Canola | 02–24–94 | Canola plants genetically engineered to express resistance to the herbicide glyphosate. | Idaho. |
| 94–055–05 | DuPont Agricultural Products | 02–24–94 | Canola plants genetically engineered to express a gene encoding dihydrodipicolinic acid synthase derived from *Coryne-bacterim glutamicum.* | Idaho. |
| 94–060–01 | Upjohn Company | 03–01–94 | Lettuce plants genetically engineered to express the nucleocapsid protein from tomato spotted wilt virus (TSWV) for resistance to TSWV. | Georgia. |
| 94–060–02, renewal of permit 93–074–03, issued on 07–12–93. | Upjohn Company | 03–01–94 | Cucumber plants genetically engineered to express resistance to cucumber mosaic virus, watermelon mosaic virus 2, and zucchini yellow mosaic virus. | Georgia. |
| 94–063–01 | Agracetus, Incorporated | 03–04–94 | Peanut plants genetically engineered to express resistance to tomato spotted wilt virus. | Hawaii. |

Done in Washington, DC, this 29th day of March 1994.

**Lonnie J. King,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 94–7819 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–34–P

## Federal Grain Inspection Service

### Designation of the Lincoln (NE) and Omaha (NE) Agencies

**AGENCY:** Federal Grain Inspection Service (FGIS).

**ACTION:** Notice.

**SUMMARY:** FGIS announces the designation of Lincoln Inspection Service, Inc. (Lincoln), and Omaha Grain Inspection Service, Inc. (Omaha), to provide official inspection services under the United States Grain Standards Act, as amended (Act).

**EFFECTIVE DATE:** May 1, 1994.

**ADDRESSES:** Neil E. Porter, Director, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

**FOR FURTHER INFORMATION CONTACT:** Neil E. Porter, telephone 202–720–8262.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 29, 1993, **Federal Register** (58 FR 58149), FGIS announced that the designations of Lincoln and Omaha Agencies end on April 30, 1994, and asked persons interested in providing official services in the geographic areas assigned to Lincoln and Omaha to submit an application for designation. Applications were due by December 1, 1993.

Lincoln and Omaha, the only applicants, each applied for designation in the entire areas they are currently assigned. FGIS requested comments on the applicants in the December 30, 1993, **Federal Register** (58 FR 69317). Comments were due by January 31, 1994. FGIS received one comment supporting the designation of Lincoln by the deadline.

FGIS evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Lincoln and Omaha are able to provide official services in the geographic areas for which they applied.

Effective May 1, 1994, and ending April 30, 1997, Lincoln and Omaha are designated to provide official inspection services in the geographic area specified in the October 29, 1993, **Federal Register**.

Interested persons may obtain official services by contacting Lincoln at 402–435–4386 and Omaha at 402–341–6739.

**Authority:** Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 22, 1994.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 94–7360 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–EN–F

### Opportunity To Comment on the Applicant for the Jamestown (ND) Area

**AGENCY:** Federal Grain Inspection Service (FGIS).

**ACTION:** Notice.

**SUMMARY:** FGIS is requesting comments on the applicant for designation to provide official services in the geographic area currently assigned to Grain Inspection, Inc. (Jamestown).

**DATES:** Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 2, 1994.

**ADDRESSES:** Comments must be submitted in writing to Neil E. Porter, Director, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36CPDIR]. ATTMAIL and FTS2000MAIL users may respond to !A36CPDIR. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Neil E. Porter. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Neil E. Porter, telephone 202–720–8262.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the February 1, 1994, **Federal Register** (59 FR 4678), FGIS asked persons interested in providing official services in the geographic area assigned to Jamestown to submit an application for designation. Applications were due by March 2, 1994. Jamestown, the only applicant, applied for designation for the entire area currently assigned to them. FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning Jamestown. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of Jamestown. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicant written notification of the decision.

**Authority:** Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 22, 1994.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 94–7361 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–EN–F

### Opportunity for Designation in the Minot (ND) and Tri-State (OH) Areas

**AGENCY:** Federal Grain Inspection Service (FGIS).

**ACTION:** Notice.

**SUMMARY:** The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Minot Grain Inspection, Inc. (Minot), and Tri-State Grain Inspection Service, Inc. (Tri-State), will end September 30, 1994, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

**DATES:** Applications must be postmarked or sent by telecopier (FAX) on or before May 2, 1994.

**ADDRESSES:** Applications must be submitted to Neil E. Porter, Director, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Neil E. Porter. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Minot, main office located in Minot, North Dakota, and Tri-State, main office located in Cincinnati, Ohio, to provide official inspection services under the Act on October 1, 1991.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Minot and Tri-State end on September 30, 1994. The geographic area presently assigned to Minot, in the State of North Dakota, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the North Dakota State line east to State Route 14;

Bounded on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded on the West by the North Dakota State line.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Harvey Farmers Elevator, Harvey, Wells County (located inside Grand Forks Grain Inspection Department, Inc.'s, area); and Benson Quinn Company, Underwood, and Missouri Valley Grain Company, Washburn, all in McLean County (located inside Grain Inspection, Inc.'s, area).

The geographic area presently assigned to Tri-State, in the States of Indiana, Kentucky, and Ohio, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland Counties, Indiana.

Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties, Kentucky.

In Ohio:

Bounded on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the Clark County line; the northern Clark County line east to U.S. Route 68;

Bounded on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the Adams County line; the eastern Adams County line;

Bounded on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded on the West by the western Hamilton, Butler, and Preble County lines.

Interested persons, including Minot and Tri-State, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning October 1, 1994, and ending September 30, 1997. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: March 22, 1994.

**Neil E. Porter,**

*Director, Compliance Division.*

[FR Doc. 94–7362 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–EN–F

## Rural Electrification Administration

## Municipal Interest Rates for Second Quarter of 1994

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Notice of municipal interest rates on advances from insured electric loans for the second quarter of 1994.

**SUMMARY:** REA hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the second calendar quarter of 1994.

**DATES:** These interest rates are effective for interest rate terms that commence during the period beginning April 1, 1994, and ending June 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sue Arnold, Management Analyst, U.S. Department of Agriculture, Rural Electrification Administration, room 2230–s, 14th Street & Independence Avenue SW., Washington, DC 20250–1500. Telephone: 202–720–0736. FAX: 202–720–4120.

**SUPPLEMENTARY INFORMATION:** Pursuant to REA regulations at 7 CFR 1714.5, the interest rates on advances from municipal rate loans are based on indexes published in the "Bond Buyer" for the four weeks prior to the first Friday of the last month before the beginning of the quarter. In accordance with 7 CFR 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the second calendar quarter of 1994.

| Interest rate term ends in (year) | Interest rate (0.000 percent) |
|---|---|
| 2015 or later | 5.500 |
| 2014 | 5.500 |
| 2013 | 5.500 |
| 2012 | 5.500 |
| 2011 | 5.375 |
| 2010 | 5.375 |
| 2009 | 5.375 |
| 2008 | 5.250 |
| 2007 | 5.125 |
| 2006 | 5.125 |
| 2005 | 5.000 |
| 2004 | 4.875 |
| 2003 | 4.750 |
| 2002 | 4.625 |
| 2001 | 4.625 |
| 2000 | 4.500 |
| 1999 | 4.375 |
| 1998 | 4.125 |
| 1997 | 3.750 |
| 1996 | 3.625 |
| 1995 | 3.000 |

Dated: March 29, 1994.

**Wally Beyer,**

*Administrator.*

[FR Doc. 94–7840 Filed 3–31–94; 8:45 am]

BILLING CODE 3410–15–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 12–94]

### Foreign-Trade Zone 84; Houston, TX; Application for Subzone Hydril Company Facilities (Oil Field Equipment)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting special-purpose subzone status for export activity at the oil well equipment manufacturing facilities of the Hydril Company (Inc.), located in Houston, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 24, 1994.

The Hydril facilities consist of two sites in Houston (Harris County), Texas. *Site 1:* (96 acres)—administrative/manufacturing buildings, 3300 North Sam Houston Parkway East, one mile south of Houston Intercontinental Airport; and, *Site 2:* (10 acres)—manufacturing buildings, 8641 Moers Road, about ½ mile east of Hobby Airport. The facilities (350 employees) produce offshore and surface oil field drilling equipment, such as blowout preventers, diverter systems, chokes, and drill stem valves, for export and the domestic market. Foreign-origin materials used in the manufacturing process (about 10% of total) include: plastic articles, iron, steel, or non-alloy casings; drill pipe of iron, non-alloy, or alloy; tubes of iron, non-alloy or alloy, alloy tube/pipe fittings, insulated wire, and lighting fittings. The application requests subzone status for export activity only (foreign materials would be admitted under privileged foreign status (19 CFR 146.41)).

Zone procedures would exempt Hydril from Customs duty payments on the foreign materials used in export production (60% of output). Foreign materials and finished products held for export would be eligible for an exemption from certain state and local *ad valorem* taxes. The application indicates that the savings from zone procedures would help improve the Hydril facilities' international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 31, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 15, 1994).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, #1 Allen Center, 500 Dallas, suite 1160, Houston, TX 77002.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street & Constitution Avenue NW., Washington, DC 20230.

Dated: March 25, 1994.

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 94–7855 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–DS–P

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[Order No. 687]

### Grant of Authority for Subzone Status; West Coast Forest Products, Inc. (Wood Building Products); Arlington, WA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

*Whereas*, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

*Whereas*, an application from the Port of Tacoma, grantee of Foreign-Trade Zone 86, Tacoma, Washington, requesting authority for special-purpose subzone status at the West Coast Forest Products, Inc., plant, located in Arlington (Snohomish County), Washington, for the processing/manufacturing for export of Spruce-Pine-Fir type lumber (predominantly white spruce) which is sourced from lumber mills in the northern sections of Alberta, British Columbia, and Saskatchewan, Canada, was filed by the Board on December 3, 1992, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 36–92, 57 FR 61395, 12–24–92); and,

*Whereas*, the Board has found that the requirements of the Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

*Now, therefore*, the Board hereby authorizes the establishment of a subzone (Subzone 86B) at the West Coast Forest Products plant in Arlington, Washington, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following restriction and condition: 1. All foreign-origin lumber processed or manufactured under zone procedures at the plant shall be exported, and;

2. Because of the special circumstances of this case, this action will not be considered a precedent for other FTZ Board actions.

Signed at Washington, DC, this 24th day of March 1994.

**Joseph A. Spetrini,**

*Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.*

Attest:

**John J. Da Ponte, Jr.,**

*Executive Secretary.*

[FR Doc. 94–7854 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–DS–P

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## International Trade Administration

[A–401–801]

### Antifriction Bearings From Sweden; United States Court of International Trade Decisions

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**SUMMARY:** On November 30, 1993, the United States Court of International Trade (CIT) rejected the Department of Commerce's redeterminations on remand of the final results of the first administrative review of the antidumping duty order on Antifriction Bearings (Other Than Tapered Roller Bearings) and parts thereof from Sweden (56 FR 31762, July 11, 1991). *The Torrington Corp.* v. *United States*, (Slip Op. 93–226, November 30, 1993) (*Torrington*) and *Federal-Mogul Corp.* v. *United States*, (Slip Op. 93–223, November 30, 1993) (*Federal-Mogul*).

Specifically, the CIT rejected the Department's methodology for calculating the amount of the tax adjustment that was added to United States price. The CIT entered final judgment on all issues in *Torrington*, and entered final judgment on all issues in *Federal-Mogul*. The results covered the period November 9, 1988, through April 30, 1990.

**EFFECTIVE DATE:** December 10, 1993.

**FOR FURTHER INFORMATION CONTACT:** Joseph A. Fargo or Richard Rimlinger Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington DC, 20230; telephone (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 8, 1993, in *The Torrington Corp.* v. *United States*, (Slip Op. 93–175), and on June 2, 1993, in *Federal-Mogul Corp.* v. *United States*, (Slip Op. 93–90), the CIT remanded the final results of the first administrative review of the antidumping duty order on Antifriction Bearings (Other than Tapered Roller Bearings) and parts thereof from Sweden (56 FR 31762, July 11, 1991) to the Department for reconsideration of a number of issues. For one of these issues, in both cases, the Court ordered the Department to determine the exact monetary amount of the value added tax (VAT) paid on each sale in the home market, to make certain that the amount of the VAT adjustment added to the comparable U.S. sale is less than or equal to this amount, and to add the full amount of the VAT in the home market to foreign market value (FMV) without adjustment. On October 8, 1993, and on September 1, 1993, in *Torrington* and *Federal-Mogul* respectively, the Department submitted to the CIT its redeterminations on remand on the VAT and other issues. On November 30, 1993, the CIT ruled upon Commerce's redeterminations in *Torrington* and *Federal-Mogul*. In this decision, the CIT rejected the Department's redetermination methodology for calculating the amount of the VAT adjustment added to USP.

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's decisions in *Torrington* and *Federal-Mogul* on November 30, 1993, which rejected the Department's redetermination methodology for calculating the amount of the VAT adjustment added to USP, constitute decisions not in harmony with the Department's final results.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise covered by each of these cases. Further, the Department will amend the final results of review (to reflect the change in VAT methodology ordered by the CIT) in either or both of these cases if a "conclusive" decision(s) is rendered affirming the CIT's opinion.

Dated: March 23, 1994.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 94–7851 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–DS–P

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**Secretariat File No.: USA–93–1904–04**

## Amended Final Determination Pursuant to Binational Panel Order Certain Cut-to-Length Carbon Steel Plate From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 25, 1994.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Freilich or Jean Kemp, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3793.

**SUMMARY:** The Department of Commerce has prepared this final correction of clerical errors pursuant to the order from the Binational Panel, Secretariat File No.: USA–93–1904–04.

**BACKGROUND:** On March 15, 1994, the Binational Panel in the case of IPSCO, Inc. (IPSCO), Secretariat File No. USA–93–1904–04 (March 15, 1994), granted a motion by respondent, IPSCO, asking the Department of Commerce (Department) to correct two ministerial errors in the Department's Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Canada, published at 58 FR 37099 (July 9, 1993). The results covered the period from January 1, 1992, through June 30, 1992.

In this case, the Binational Panel ordered the Department to correct the following two errors which appeared in the computer program for IPSCO cut-to-length plate:

1. The computer program's mistaken elimination of home market sales of control number 0019.

2. The computer program's mistaken inclusion of imputed credit expenses in the costs used for the less-than-cost comparisons.

The Department corrected these computer programming errors in the manner suggested by petitioners, and agreed to by respondent.

**RESULTS OF ORDER:** The recalculated weighted-average dumping margin is:

| Company | Margin percentage |
|---|---|
| IPSCO | 1.69 |

This final correction is in accordance with the order of the Binational Panel, Secretariat File No.: USA–93–1904–04.

Dated: March 25, 1994.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 94–7850 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–DS–P

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**[A–821–802]**

## Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 11, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon, Eric Hassman, or Melissa Skinner, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1391, (202) 482–1382, or (202) 482–0159, respectively.

**SUMMARY:** The Department of Commerce (the Department) and the Government of the Russian Federation (GRF) have signed an Amendment (the Amendment) to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (the Agreement). The parties signed the Amendment recognizing that the Agreement to date had not generated the anticipated increase in the price of U.S.-origin natural uranium that would have permitted renewed sales of Russian uranium under the price-tied quota mechanism nor increased sales of U.S.-origin natural uranium or employment in the U.S. uranium industry.

**SUPPLEMENTARY INFORMATION:**

**Background**

On October 16, 1992, the Department and the GRF signed the suspension agreement on uranium and, on October 30, 1992, the Agreement was published in the **Federal Register** (57 FR 49220, 49235). The Department's latest price calculation, under the terms of the Agreement, on October 1, 1993, did not reach the threshold price of $13.00 per pound which would allow for Russian Federation imports of uranium into the U.S. market under the price-tied quota mechanism (Appendix A of the Agreement). Thus, the GRF requested consultations with the Department, as specified in Section X.C of the Agreement, in order to review the market situation and consider adjustments to the quota.

As a result of these consultations, a proposed amendment to the Russian suspension agreement, based on the concept of joint sales between U.S. and Russian producers, was initialled on December 15, 1993, by the Department and the GRF. The Department subsequently released the proposed amendment to interested parties for comment. After careful consideration by the Department of the comments submitted and further consultations between the two parties, the Department and the GRF signed the final amendment on March 11, 1994. The text of the Amendment follows in Annex 1 to this notice.

Information on the amount of annual matched imports remaining available for the year, as noted in Section IV.E of the Amendment, may be obtained from the above-noted contacts in the Office of Agreements Compliance. Confirmation requests should be submitted, in accordance with 19 CFR 353.31 and 353.32, to: Secretary of Commerce, Attention: Import Administration (Office of Agreements Compliance), Central Records Unit, Room B–099, U.S. Department of Commerce, Pennsylvania Avenue and 14th St. NW., Washington, DC 20230.

Dated: March 25, 1994.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

**Annex 1—Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation**

The parties recognize that the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation ("the Agreement") has not generated the anticipated increase in the price of U.S.-origin natural uranium that would have permitted renewed sales of Russian uranium under the price-tied quota mechanism; nor has the Agreement increased sales of U.S.-origin natural uranium or employment in the U.S. uranium industry. Because an objective of this Agreement is to restore the competitive position of the U.S. industry, the parties agree as follows.

The Agreement is hereby extended until March 31, 2004. Consistent with the requirement of Section 734(l) of the U.S. Tariff Act of 1930, as amended (the Act) to prevent the suppression or undercutting of price levels of domestic products in the United States, Sections II, IV, VIII and XIV are amended as set forth below. Appendix A of the Agreement is suspended until March 31, 2004, in accordance with amended Section XIV. All other provisions of the Agreement, particularly Section VII, remain in force and apply to this Amendment.

The following definitions are added to Section II.

**II. Definitions**

(e) For purposes of this Agreement, "United States" shall comprise the customs territory of the United States of America (the 50 States, the District of Columbia and Puerto Rico) and foreign trade zones located in the territory of the United States of America. (f) Separative work unit, or SWU, means the standard measure of enrichment services. The effort expended in separating a mass F of feed of assay $x_f$ into a mass P of product of assay $x_p$ and waste of mass W and assay $x_w$ is expressed in terms of the number of separative work units needed, given by the expression $SWU=WV(x_w)+PV(x_p)-FV(x_f)$, where V(x) is the "value function," defined as $V(x)=(1-2x)\ln[(1-x)/x]$.

(g) "U.S. producer" means: (1) a company that owns a production interest in a licensed or permitted mine capable of producing uranium with sufficient economically recoverable reserves to justify production or (2) a U.S. converter or enricher.

(h) "For consumption" means for further processing (as necessary) and use as nuclear fuel. Consumption may include such uses as swaps or exchanges of material, only where such swaps or exchanges are documented to be conducted solely for the purpose of facilitating the further processing and use as nuclear fuel by the end-user. The material shall not be loaned. The material shall not be resold except as a result of force majeure.

(i) "End-user" means an entity, such as an electric utility, hospital, or scientific institution, which consumes uranium.

(j) A "Spot Contract" means any contract for natural uranium and/or SWU that specifies that all deliveries must be completed within 12 months of contract execution. A "Long-Term" contract means any contract that is not a spot contract.

(k) "Newly-produced" natural uranium in the form of $U_3O_8$ means uranium produced, on or after the effective date of this Amendment, by conventional mining, in-situ leaching ("ISL") production, co-product or by-product production, or mine water recovery production. Newly-produced natural uranium in the form of $UF_6$ means $UF_6$ containing newly-produced $U_3O_8$. If the Russian Federation Ministry of Atomic Energy (MINATOM) has not concluded sales of at least 2,204,620 pounds $U_3O_8$ equivalent during the first six months of this Amendment, up to 1,000,000 pounds $U_3O_8$ equivalent mined prior, and milled subsequent to, the effective date of the Amendment, may be used for the purpose of matched sales for the remainder of that year.

Section IV.A., IV.B., and IV.C.1., and to the extent that they relate to Appendix A, other portions of Section IV, are replaced with:

IV. Matched Imports. Matched imports are imports of Russian-origin natural uranium or SWU that are matched with U.S.-origin natural uranium or SWU for delivery to end-users for consumption in the United States in accordance with the terms of this Amendment. Russian-origin natural uranium or SWU may be imported into the United States under this Amendment only if they qualify as matched imports as described below. The importer must document that the United States Department of Commerce ("the Department") has issued a confirmation under which the shipment may be imported and any prior imports under that confirmation. Notwithstanding other provisions of this Amendment, matched imports are authorized up to the limits, and subject to the conditions, set forth below.

To qualify as a matched import under this section, "Russian-origin" natural uranium (i.e. $U_3O_8$ or $UF_6$) or SWU must be matched with an equal portion of "newly-produced" U.S.-origin natural uranium (i.e. $U_3O_8$ or $UF_6$) or SWU, subject to adjustment under Section D. For purposes of this Section, Russian-origin means natural uranium (i.e. $U_3O_8$ or $UF_6$) or SWU which is produced in Russia, and which is exported from Russia for the first time after the effective date of this Amendment.

Matched imports are subject to the following conditions:

(a) The U.S.-origin natural uranium must be mined in the United States, and/or the U.S.-produced SWU must be or have been performed in the United States, subsequent to the effective date of this Amendment and must be delivered pursuant to a new contract, or a new extension or modification of a contract, to supply the needs of an end-user which are uncommitted as of the date of the Amendment;

(b) In the case of SWU, prior to the presentation of the matched sale to the Department for confirmation, the U.S. producer must be informed of all material terms of the matched sale to the end-user and must consent to the matching of its SWU in that sale with the imported Russian SWU;

(c) In the case of natural uranium, if the U.S. producer is not the contracting party with the end-user, then, prior to the presentation of the matched sale to the Department for confirmation, the U.S. producer must consent to the matching of its uranium in that sale with the imported Russian uranium; and

(d) Prior to the presentation of the matched sales contract to the Department for confirmation, the U.S. producer and the Russian producer must agree to the schedule of deliveries to the end-user of the imported Russian uranium or SWU and of the U.S. uranium or SWU.

Matched sales may be made only by matching spot contracts to spot contracts and long-term contracts to long-term contracts, as defined in Section II, and uranium-type to uranium-type (i.e., $U_3O_8$ or $UF_6$). Consistent with Section III of the Agreement, conversion does not change the country-of-origin of uranium ore, and, thus, U.S.-origin $UF_6$ is U.S-origin $U_3O_8$ converted at any converter.

*A. Limits for Matched Imports*

For 1994 (April 1, 1994-March 31, 1995) and 1995 (April 1, 1995-March 31, 1996), this Amendment authorizes annual matched sales of up to 3,000 metric tons (6,613,860 pounds $U_3O_8$ equivalent) per year of Russian-origin natural uranium and up to 2 million Russian-origin SWU per year from the Russian Federation to the United States. The matching natural uranium must be sold during 1994 and 1995 but may be imported for delivery at any time during the life of the Amendment, subject to the conditions contained herein. For the years 1996 through 2003, this Amendment authorizes additional matching deliveries of natural uranium up to, but not exceeding, the levels listed in Attachment 1. Deliveries pursuant to the 3,000 metric ton matched natural uranium quotas, confirmed in 1994 and 1995 and delivered in subsequent years, shall not be counted against the quota limitations listed in Attachment 1 for the years 1996 through 2003. Because the annual matching SWU quota expires two years from the effective date of this Amendment, no additional matched SWU sales, or corresponding imports of SWU, will be allowed. However, the matching SWU sold during 1994 and 1995 may be delivered at any time during the life of the matched sales contract.

For purposes of counting against the 1994 and 1995 sales quota limitations for both natural uranium and SWU, the date of the Department's confirmation (see Section IV.E) shall determine whether a matched import comes within the annual limit. However, for purposes of counting against the natural uranium delivery quota limitations for the years 1996 through 2003, the date of delivery of the Russian component of the confirmed matched sale (see Section IV.E) shall determine whether a matched import comes within the annual limit. The sales quotas in the first two years and the delivery quotas in subsequent years of the Amendment for natural uranium are separate and distinct.

Enriched uranium from Russia may be imported only if there is a matched sale for the SWU component of such enriched uranium. When Russian enriched $UF_6$ is imported pursuant to a matching SWU sale, an equivalent amount of natural uranium (based on the $U_{235}$ assay of the product assuming a 0.3 tails assay) must be deposited with, exchanged, or returned to the seller's account on, before, or up to five days after the date of delivery of the imported enriched $UF_6$ to the buyer or the buyer's account. The feed component shall be counted against the natural uranium matched sales quota, through use in a matched sale, unless the feed material or its equivalent that is returned to the seller is either exported or quarantined from the U.S. market. Regardless of the ultimate disposition of the natural feed component associated with a sale of Russian-origin SWU, from the time any uranium products are delivered or returned to the seller or for the seller's account until the time such material is disposed of in accordance with the terms of this Section of the Amendment, the seller agrees to the following:

- To maintain the material in a separate account exclusively for the accounting of this material at the converter, enricher, or fabricator;
- To make available to the Department, quarterly, a full accounting of all deliveries into and out of this account at the converter, enricher, or fabricator including delivery from the account, to whom delivery was made, pursuant to which contract, in what quantity, and confirmation of the status of any transaction that occurred from the account; and
- To certify not to use the imported uranium for loans, swaps, or use as loan repayment or any purpose other than delivery in accordance with this Section of the Amendment, unless: (i) The amount is destined for consumption as defined in Section II(h); (ii) the amount is counted against the quota in connection with a confirmed matched sale; and (iii) the Department is notified of the transaction.

Any natural uranium deposited with, exchanged, or returned to the seller or the seller's account as a result of sales of Russian SWU under matched contracts shall be deemed to be of Russian origin at the time of deposit, exchange or return, and, if re-exported, shall clearly be identified as Russian origin in all accompanying documentation and packaging.

MINATOM will restrict the volume of direct or indirect exports to the United States of the merchandise subject to this Amendment on or after the effective date of this Amendment, and will continue to restrict the transfer or withdrawal from inventory (consistent with the provisions of this Section) of the merchandise subject to this Amendment.

MINATOM will ensure that all exports of merchandise made under this provision qualify as matched imports made in conjunction with a U.S. producer or enricher, composed of equal parts Russian and newly-produced U.S.-origin natural uranium (subject to adjustment under Section D) or SWU.

*B. Per Company Limits for Matched Imports*

For each calendar year's quantity of confirmed matched imports, no more than 20 percent of the total allowable limit of matched imports of uranium may be matched with uranium sourced from any single U.S. producer. Nor may more than fifty (50) percent of the total allowable limit be matched with uranium from any single group of producers under common ownership or control. For purposes of this section, "ownership or control" shall be defined consistent with Section 771(13) of the Act.

*C. Price Limits for Matched Imports*

The unit price paid to the U.S. producer for the U.S. component for each sale involving matched imports must be greater than the unit price paid by the end-user for consumption in the United States. (If the producer is the seller to the end-user, there may be no separate payment for the U.S. component.)

*D. Monitoring of U.S. Production*

Given that a goal of this Amendment is to stimulate the production of natural uranium in the United States, the Department will monitor the level of uranium production in the United States through information obtained from the U.S. Energy Information Administration.

Regardless of the level of U.S. production, matched imports during the first year of this Amendment will be on a 50–50 basis. Depending on the level of U.S. uranium production achieved in the first year, the matching requirements for matched imports in the second year may be modified as described below.

The Department will determine the annualized level of U.S. production of natural uranium in 1994 using data from April 1, 1994, through March 31, 1995. On April 30, 1995, the Department will announce the level of U.S. production for 1994 for the purpose of possible adjustment to the matching requirement ratio for the following year. If the annualized level of U.S. production in the first year is less than 9 million pounds or more than 10 million pounds, then the ratio required for matched import limits during the second year of this Amendment will be adjusted in accordance with the following schedule:

| U.S. production for first year (millions of lbs.) | Matching requirement for second year (percentages) | |
|---|---|---|
| | U.S. | Russian |
| 4–5 | 55 | 45 |
| 5–6 | 54 | 46 |
| 6–7 | 53 | 47 |
| 7–8 | 52 | 48 |
| 8–9 | 51 | 49 |
| 9–10 | (1) | (1) |
| 10–11 | 49 | 51 |
| 11–12 | 48 | 52 |
| 12–13 | 47 | 53 |
| 13–14 | 46 | 54 |
| 14–15 | 45 | 55 |

[1] No change.

Any changes in the ratio required for matched imports during the second year of this Amendment will not affect matched imports confirmed by the Department during the first year of this Amendment.

Such a ratio adjustment will only be in force during 1995. For all subsequent years of the Amendment, the ratio for matching sales will remain at 50–50.

*E. Department Confirmation of Matched Imports.*

Any matched sales contract to the end-user to be used in a matched sale under this Amendment must be submitted to and confirmed by the Department in accordance with this Section. To be confirmed as a matched contract, the party submitting the contract must provide the following information:

- The date and terms, including price, of the contract with the end-user pursuant to which the matched import(s) will be made;
- A description of the physical material being imported;
- Identification of the Russian supplier of the matched import(s);
- The estimated date on which the matched import(s) will enter the customs territory of the United States;
- The export license number under which the import(s) will be exported;
- The U.S. producer and specific production facility from which the matched material was or will be sourced;
- Explanation of the U.S. producer's relation to any other enterprise involved in the production and/or sale of uranium in the United States;
- A copy of the contract with the end-user pursuant to which the matched import(s) are to be made;
- A copy of any separate contract or agreement made for the U.S. material;
- Certification from the U.S. producer that its production will be "newly-produced" (within the meaning of this Amendment) to fulfill the contract, and its ability and commitment to provide, at the time specified in the contract, the contracted volume of natural uranium and/or SWU;
- Certification from the U.S. producer that it consents to the matching of its material and the estimated delivery schedule;
- An estimated delivery schedule;
- Certification from the end-user that it will consume the matched product in the United States in accordance with Section II(h) of this Amendment;
- All documentation relating to the escrow account set up for the matched sale; and
- Any other information that the Department, after consultation with MINATOM, determines necessary to confirm that the requirements of this Amendment have been met.

Within 15 days of filing with the Import Administration's Central Records Unit a complete confirmation request, the Department will confirm that the matched sales contract qualifies for matching under this Amendment or will state specifically why it does not qualify. In making such a determination, the Department will limit its review to determining (i) whether the contract under review comes within total annual limits remaining available for the year in which the request was submitted; (ii) whether the U.S. uranium matched under the matched sales contract exceeds the per company limitations set forth in Section IV.B; and (iii) whether the sales price for the newly-produced U.S. uranium, if there is such a separate sale, meets the requirements set forth in Section IV.C. Further, in the process of confirmation request and approval, the Department will review the specific terms of the escrow account documentation.

The end-user must pay a blended price for all deliveries. When deliveries of Russian uranium are made prior to deliveries of the matching U.S. product, either:

a. The U.S. product must be delivered to the end-user within 1 month of delivery of the Russian component to the end-user, or

b. The difference between the price paid to the Russian producer and the blended price will be paid into a properly drawn escrow account specified in the contract. However, the amount deposited in the escrow account shall in no case be less than 10 percent of the total contracted value of the U.S. component of the matched sale. The escrow funds will be forfeited if the U.S. producer fails to deliver any portion of the U.S. component of the matched sale. The Department and MINATOM will develop a way to dispose of any forfeited escrow funds, but in no event will such funds be returned to any matched sales participant, *e.g.*, the U.S. or Russian producer, the end-user, or the importer.

If the Department determines upon review that any party has failed to deliver or cancelled delivery of uranium or SWU in a matched sale contract for any reason other than force majeure, or has otherwise not complied with the terms of the Amendment, that party shall be precluded from participation in any further matched sales.

Upon confirmation, the Department will subtract the total amount of contracted Russian-origin matched-import uranium and/or SWU from the remaining quota for that year. The Department shall also make available on a current and continuous basis the amount of annual matched imports that remain available for the year. The

Department will publish the contact office (and telephone number) for obtaining such information and the office to which confirmation requests should be sent. If the Department fails to respond to a confirmation request for a matched import within 15 days, the request shall be deemed to be approved notwithstanding any other provisions of this Amendment.

Russian natural uranium or SWU may be imported into the United States prior to the scheduled time for delivery pursuant to a confirmed matched sales contract only if:

(1) The material is placed in a dedicated account for the approved contract;

(2) The importer (if the owner of material, or the person for whom or on whose behalf the material is imported) or his consignee, certifies to the Department that such material will not be sold, loaned, swapped, or utilized other than for delivery to the U.S. end-user for consumption in accordance with Section II(h) of this Amendment; and

(3) The material enters the U.S. but is not liquidated until such time as it is delivered to the end-user.

Prior to U.S. Customs clearance of the Russian-origin uranium, the importer (if the owner of material, or the person for whom or on whose behalf the uranium is imported) will notify the Department of the date of import, the quantity and declared value of the shipment, the vessel name, the port of entry, and the pre-confirmed individual contract pursuant to which the shipment is entering. If such information is consistent with a pre-confirmed contract and the notice of request for delivery from the end-user, the Department will notify the U.S. Customs Service within five business days. The importer will provide certification to U.S. Customs at time of import that the material will be used only for a matched sale subject to the conditions of this Amendment and will be consumed in accordance with Section II(h) of this Amendment. Once the U.S. Customs Service has received the foregoing notification and certification, it will promptly release the shipment.

The following paragraph constitutes an addendum to Section VIII of the Agreement:

MINATOM agrees to adhere to all reporting requirements specified in Section VIII.A. of the Agreement. Appendix B data will be submitted to the Department according to the reporting requirements specified in Section VIII.A. of the Agreement, and will be treated and verified in accordance with the Letter of Administration exchanged between the Department and MINATOM simultaneously with the signing of this Amendment. The Department and MINATOM agree that the Letter of Administration constitutes an integral part of this Amendment.

Section XIV of the Agreement is amended by adding the following:

*C. Miscellaneous*

The parties agree to consult on a regular basis during the term of this Agreement on Russia being treated as a market economy or the Russian uranium industry being treated as a market-oriented industry under U.S. antidumping laws. During such consultations the Department will identify the criteria that Russia or the Russian uranium industry would need to satisfy to be accorded such treatment by the Department.

The parties further agree that their intention is, consistent with Section IV.J of the Agreement, that Russia be accorded treatment no less favorable than any other Republic of the former Soviet Union that also has a suspension agreement with the United States with respect to trade in uranium. Accordingly, if U.S. law, regulation, administrative practice, or policy should change in any manner that would result in relatively less favorable treatment for Russia, or if the United States should enter into any agreement or understanding or take any action that would cause that result, the parties will promptly enter into consultations with a view to amending this Agreement so as to eliminate such less favorable treatment.

The Parties agree that this Amendment constitutes an integral part of the Agreement.

The English language version of this Amendment shall be controlling.

Signed on this 11th day of March, 1994.

For the Ministry of Atomic Energy of the Russian Federation:

**Nikolai Yegorov.**

For the United States Department of Commerce:

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

ATTACHMENT 1

| Year | Natural uranium (lbs $U_3O_8e$) | SWU |
|---|---|---|
| 1994 [1] | 6,613,860 | 2,000,000 |
| 1995 [1] | 6,613,860 | 2,000,000 |
| 1996 | 1,930,000 | n/a |
| 1997 | 2,710,000 | n/a |
| 1998 | 3,600,000 | n/a |
| 1999 | 4,040,000 | n/a |
| 2000 | 4,230,000 | n/a |
| 2001 | 4,040,000 | n/a |
| 2002 | 4,890,000 | n/a |
| 2003 | 4,300,000 | n/a |

[1] The quota volume in these years apply to sales. Deliveries pursuant to these contracts may be delivered in subsequent years.

[FR Doc. 94-7849 Filed 3-31-94; 8:45 am]

BILLING CODE 3510-DS-P

## Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Quota Cheese

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Publication of quarterly update to annual listing of foreign government subsidies on articles of quota cheese.

**SUMMARY:** The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Stroup or Karn Goff, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482-2786.

**SUPPLEMENTARY INFORMATION:** Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on

which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the TAA.

Dated: March 29, 1994.

**Susan G. Esserman,**

*Assistant Secretary for Import Administration.*

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

[In cents per pound]

| Country | Program(s) | Gross[1] subsidy | Net[2] subsidy |
|---|---|---|---|
| Belgium | European Community (EC) Restitution Payments | 37.3 | 37.3 |
| Canada | Export Assistance on Certain Types of Cheese | 26.6 | 26.6 |
| Denmark | EC Restitution Payments | 51.7 | 51.7 |
| Finland | Export Subsidy | 88.8 | 88.8 |
| France | EC Restitution Payments | 54.4 | 54.4 |
| Germany | EC Restitution Payments | 54.5 | 54.5 |
| Greece | EC Restitution Payments | 35.8 | 35.8 |
| Ireland | EC Restitution Payments | 54.7 | 54.7 |
| Italy | EC Restitution Payments | 82.5 | 82.5 |
| Luxembourg | EC Restitution Payments | 37.3 | 37.3 |
| Netherlands | EC Restitution Payments | 39.0 | 39.0 |
| Norway | Indirect (Milk) Subsidy | 16.2 | 16.2 |
| | Consumer Subsidy | 35.9 | 35.9 |
| | | 52.1 | 52.1 |
| Portugal | EC Restitution Payments | 37.5 | 37.5 |
| Spain | EC Restitution Payments | 41.3 | 41.3 |
| Switzerland | Deficiency Payments | 144.4 | 144.4 |
| U.K. | EC Restitution Payments | 39.9 | 39.9 |

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 94-8019 Filed 3-31-94; 8:45 am]
BILLING CODE 3510-DS-P

## Minority Business Development Agency

### Business Development Center Applications: Bakersfield, CA

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) Program. The total cost of performance for the first budget period (12 months) from August 1, 1994 to July 31, 1995, is estimated at $198,971. The application must include a minimum cost-share of 15% of the total project cost through non-Federal contributions. Cost-sharing contributions may be in the form of cash contributions, clients fees, in-kind contributions or combinations thereof. The MBDC will operate in the Bakersfield, California Geographic Service Area.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project cost

through non-Federal contributions. To assist in this effort, the MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, the MBDC will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

**DATES:** The closing date for applications is May 6, 1994. Applications must be postmarked on or before May 6, 1994.

The mailing address for submission is: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105, 415/744–3001.

A pre-application conference to assist all interested applicants will be held at the following address and time: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105, April 20, 1994 at 10 a.m.

**FOR FURTHER INFORMATION CONTACT:** Melda Cabrera, Regional Director, San Francisco Regional Office at 415/774–3001.

**SUPPLEMENTARY INFORMATION:** Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

*Pre-Award Costs*—Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

*Outstanding Account Receivable*—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

*Name Check Policy*—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, perjury, or other matters which significantly reflect on the applicant's management, honesty or financial integrity.

*Award Termination*—The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements, and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

*False Statements*—A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

*Primary Applicant Certifications*—All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

*Nonprocurement Debarment and Suspension*—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

*Drug Free Workplace*—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

*Anti-Lobbying*—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

*Anti-Lobbying Disclosures*—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

*Lower Tier Certifications*—Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure Form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Dated: March 28, 1994.

**Linda Marmolejo,**

*Acting Regional Director, San Francisco Regional Office.*

[FR Doc. 94–7794 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–21–M

## National Oceanic and Atmospheric Administration

**[I.D. 032894B]**

## Gulf of Mexico Fishery Management Council; Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council's Stone Crab and Spiny Lobster Advisory Panels will hold a public meeting on April 18, 1994, from 10:30 a.m. until 5 p.m.

The purpose of the meeting is to review Draft Stone Crab Amendment 5

and a Draft Generic Amendment defining traps used in both fisheries. Amendment 5 proposes a moratorium on registering stone crab vessels and a framework procedure for implementing certain state rules in the Exclusive Economic Zone.

The meeting will be held at the Regional Service Center, State Building, suite 104, 2796 Overseas Highway (U.S. Highway 1), Marathon, FL.

**FOR FURTHER INFORMATION CONTACT:** Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL; telephone: (813) 228–2815.

**SUPPLEMENTARY INFORMATION:** The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by April 8, 1994.

Dated: March 28, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management National Marine Fisheries Service.*

[FR Doc. 94–7782 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–22–P

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**[I.D. 032894A]**

## Mid-Atlantic Fishery Management Council; Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council, its Demersal Species Committee, Habitat Committee and Enforcement Committee will hold public meetings on April 12–14, 1994, at the Grand Hotel, Oceanfront and Philadelphia Avenue, Cape May, NJ 08204; telephone (609) 884–5611. On April 12, the Demersal Species Committee will meet beginning at 1 p.m. The Habitat Committee will meet on the same day beginning at 3:30 p.m. On April 13, the Council meeting will begin at 8 a.m. The Enforcement Committee will meet following the Council meeting. On April 14, the Council will begin meeting at 8 a.m. and continue until noon.

The following topics will be discussed at the Council meeting:

(1) Summer flounder management in 1993;

(2) Scup and black sea bass management alternatives for public hearings;

(3) Review scup and black sea bass habitat sections; and

(4) Enforcement.

The Council meeting may be lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

**FOR FURTHER INFORMATION CONTACT:** David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674–2331.

**SUPPLEMENTARY INFORMATION:** The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331 at least 5 days prior to the meeting date.

Dated: March 28, 1994.

**David S. Crestin,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 94–7783 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–22–P

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**[I.D. 032394A]**

## Marine Mammals

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of application for a scientific research permit (P771#70).

**SUMMARY:** Notice is hereby given that Dr. Howard Braham, NMFS, Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way, NE., Seattle, WA 98115, has applied in due form for a permit to take humpback (*Megaptera novaeangliae*) and killer whales (*Orcinus orca*) for purposes of scientific research.

**DATES:** Written comments must be received on or before May 2, 1994.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Director, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, F/PR1, NMFS, NOAA, U.S. Department of Commerce, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

The applicant seeks authorization to biopsy up to 320 killer whales (*Orcinus orca*) and up to 120 humpback whales (*Megaptera novaeangliae*) in Alaskan waters over a 5-year period, and estimates that up to 800 additional whales of each species may be harassed incidental to the proposed biopsy activities annually.

Dated: March 25, 1994.

**Herbert W. Kaufman,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 94–7784 Filed 3–31–94; 8:45 am]

BILLING CODE 3510–22–P

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**[I.D. 031094C]**

## Marine Mammals

**Editorial Note:** Notice document 94–7070 was originally filed for public inspection on Thursday, March 24, 1994, and scheduled for publication on Friday, March 25, 1994. It did not appear in that issue due to a production error.

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Receipt of application for a public display permit (P564).

**SUMMARY:** Notice is hereby given that North Carolina Zoological Park, 4401 Zoo Parkway, Asheboro, North Carolina 27203, has applied in due form for a public display permit.

**DATES:** Written comments must be received on or before May 2, 1994.

**ADDRESSES:** The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, (301) 713–2289; and

Director, Southeast Region, NMFS, NOAA, 9450 Koger Boulevard, St. Petersburg, FL 33702, (813) 893–3141.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, NMFS, 1335 East-West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested to maintain four California sea lions (*Zalophus californianus californianus*) and two harbor seals (*Phoca vitulina*), obtained from captive stock, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The themes of the education program associated with the seal exhibits include biology, behavior, and conservation. The arrangements for transporting and maintaining the marine mammals requested in this application will be concluded consistent with requirements established by the U.S. Department of Agriculture under the Animal Welfare Act. The animals will be under the care of a licensed veterinarian at the North Carolina Zoological Park.

Dated: March 16, 1994.

**William W. Fox, Jr.,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 94–7070 Filed 3–24–94; 8:45 am]

BILLING CODE 3510–22–P

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### U.S. Correlation: Silk Apparel Categories With the Harmonized Tariff Schedule of the United States

March 29, 1994.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Notice.

**EFFECTIVE DATE:** April 1, 1994.

**FOR FURTHER INFORMATION CONTACT:**

Julie Carducci, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

**SUPPLEMENTARY INFORMATION:** The U.S. Correlation: Silk Apparel Categories with the Harmonized Tariff Schedule of the United States presents the harmonized tariff numbers under silk categories used by the United States in monitoring imports from China of silk wearing apparel containing 70 percent or more by weight of silk or silk waste, and in the administration of the U.S.-China bilateral agreement on silk apparel. The Correlation for silk apparel, which is effective on April 1, 1994, is published below. The statistical tariff numbers and categories will be included in the next supplement to the Harmonized Tariff Schedule.

Dated: March 30, 1994.

**Rita D. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

U.S. APPAREL CATEGORY SYSTEM FOR IMPORTS OF CHINESE APPAREL PRODUCTS CONTAINING 70 PERCENT OR MORE BY WEIGHT OF SILK OR SILK WASTE

| Category | | Unit | Conversion factor to square meter* |
|---|---|---|---|
| 733 | M&B silk suit-type coats | doz | 30.30 |
| 734 | Other M&B silk coats | doz | 34.50 |
| 735 | W&G silk coats | doz | 34.50 |
| 736 | Silk dresses | doz | 37.90 |
| 738 | M&B silk knit shirts | doz | 15.00 |
| 739 | W&G silk knit shirts & blouses | doz | 12.50 |
| 740 | M&B silk shirts, not knit | doz | 20.10 |
| 741 | W&G silk shirts & blouses, not knit | doz | 12.10 |
| 742 | Silk skirts | doz | 14.90 |
| 743 | M&B silk suits | no | 3.76 |
| 744 | W&G silk suits | no | 3.76 |
| 745 | M&B silk sweaters | doz | 30.80 |
| 746 | W&G silk sweaters | doz | 30.80 |
| 747 | M&B silk trousers, breeches & shorts | doz | 14.90 |
| 748 | W&G silk trousers, breeches & shorts | doz | 14.90 |
| 750 | Silk robes, dressing gowns, etc | doz | 42.60 |
| 751 | Silk nightwear and pajamas | doz | 43.50 |
| 752 | Silk underwear | doz | 13.40 |
| 758 | Silk neckwear | kg | 6.60 |
| 759 | Other silk apparel | kg | 14.40 |

*Conversion factor to square meter refers to the factor specified to convert the category unit of measure to a square meter equivalent which makes the various units addable for stating overall trade. These factors are general and not intended to precisely state the fabric equivalent of every apparel product.

**Abbreviations Found in This Correlation**

>=—greater or equal to
APP—apparel
ART—articles
BLZR—blazer
BTHROBE—bathrobe
DRESSNG—dressing
ENS—ensemble
EXCL—excluded
GWN—gown
HDNG—heading
JCKT—jacket
KNT—knit
KT—knit
M/B—men's and boys'
NESOI—not elsewhere specified or included
NT—not
OVRCTS—overcoats
PJAMAS—pajamas
SLK—silk
SMLR—similar
SWTR—sweater
W/G—women's and girls'
WGT—weight
RBRIZED—rubberized
OTH—other

| Category/HTS No. | Description | m2ef | Unit |
|---|---|---|---|
| 733 Page 1: | | | |
| 6103.29.2034 | M/B Ens of Suit-Type Jackets etc >=70% wgt Silk, Kt | 30.30 | Doz. |
| 6103.39.2040 | M/B Suit-Type Jckt/Blzr etc >=70% wgt Silk, Knit | 30.30 | Doz. |
| 6203.29.3026 | M/B Ens of Hdng 6203 >=70% wgt Silk, not Knit | 30.30 | Doz. |
| 6203.39.4040 | M/B Suit-type Jackets of >=70% wgt Silk, not Knit | 30.30 | Doz. |
| 734 Page 1: | | | |
| 6101.90.0040 | M/B Overcoats, Carcoats, etc >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6103.29.2028 | M/B Ens of Overcoats etc >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6112.19.2013* | M/B Jackets for Track Suits of >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6201.19.0040 | M/B Overcoats etc of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6201.99.0041 | M/B Anoraks etc of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6203.29.3010 | M/B Ens of Overcts etc >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6210.40.2016* | M/B Anorak etc Rubberized of >=70% wgt Silk, nt Knt | 34.50 | Doz. |
| 6211.39.0014* | M/B Track Suits Ex Trousers >=70% wgt Silk, nt Knit | 34.50 | Doz. |
| 6211.39.0017* | M/B Oth Jkt/Jkt Types of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 735 Page 1: | | | |
| 6102.90.0020 | W/G Overcoats, Carcoats, etc >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6104.29.2016 | W/G Ens of Overcoats etc >=70% wgt Silk, Knit | 34.50 | Doz. |
| 735 Page 2: | | | |
| 6104.39.2040 | W/G Suit-Type Jacket >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6112.19.2015 | W/G Jackets for Track Suits of >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6117.90.0038 | Parts of Coats & Jackets of >=70% wgt Silk, Knit | 34.50 | Doz. |
| 6202.19.0040 | W/G Overcts & Smlr Cts >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6202.99.0041 | W/G Anoraks etc of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6204.29.4016 | W/G Hdng 6202 & 6204 of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6204.39.6000 | W/G Suit-Type Jacket of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6210.50.2016* | W/G Anoraks etc Rubberized of >=70% wgt Silk, nt Knt | 34.50 | Doz. |
| 6211.49.0014* | W/G Track Suits Ex Trousers >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6211.49.0018* | W/G Oth Jkt/Jkt Types of >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 6217.90.0040 | Parts of Coats & Jackets >=70% wgt Silk, not Knit | 34.50 | Doz. |
| 736 Page 1: | | | |
| 6104.49.0040 | W/G Dresses of >=70% wgt Silk, Knit | 37.90 | Doz. |
| 6204.49.1000 | W/G Dresses of >=70% wgt Silk, not Knit | 37.90 | Doz. |
| 738 Page 1: | | | |
| 6103.29.2052 | M/B Ens of Shirts >=70% wgt Silk, Knit | 15.00 | Doz. |
| 6105.90.3040 | M/B Shirts of >=70% wgt Silk, Knit | 15.00 | Doz. |
| 738 Page 2: | | | |
| 6109.90.2010 | M/B T-Shirts, Singlets etc >=70% wgt Silk, Knit | 15.00 | Doz. |
| 6110.90.0080 | M/B Pullover & Smlr Art of >=70% wgt Silk, Knit | 15.00 | Doz. |
| 6112.19.2043* | M/B Shirts for Track Suits >=70% wgt Silk, Knit | 15.00 | Doz. |
| 6114.90.0003* | M/B Tops of >=70% wgt Silk, Knit | 15.00 | Doz. |
| 739 Page 1: | | | |
| 6104.29.2057 | W/G Ens of Blouses Shirts, etc >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6106.90.2040 | W/G Blouses of >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6109.90.2020 | W/G T-Shirts, Singlets etc >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6110.90.0082 | W/G Pullover & Smlr Art of >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6112.19.2045* | W/G Shirts for Track Suits of >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6114.90.0007* | W/G Tops of >=70% wgt Silk, Knit | 12.50 | Doz. |
| 6117.90.0028 | Parts of Blouses & Shirts of >=70% wgt Silk, Knit | 12.50 | Doz. |
| 740 Page 1: | | | |
| 6203.29.3050 | M/B Ens of Shirts of >=70% wgt Silk, not Knit | 20.10 | Doz. |
| 6205.90.2040 | M/B Shirts of >=70% wgt Silk, not Knit | 20.10 | Doz. |
| 6211.39.0015* | M/B Shirt Excl From Hdng 6205 <>70% wgt Silk, not Knit | 20.10 | Doz. |
| 741 Page 1: | | | |
| 6204.29.4076 | W/G Ens Blouses, Shirts of >=70% wgt Silk, not Knit | 12.10 | Doz. |
| 6206.10.0040 | W/G Blouses & Shirts of >=70% wgt Silk, not Knit | 12.10 | Doz. |
| 6211.49.0015* | W/G Blouse Excl From Hdng 6206 >=70% wgt Silk, not Knit | 12.10 | Doz. |
| 6217.90.0015 | Parts of Blouses & Shirts >=70% wgt Silk, not Knit | 12.10 | Doz. |
| 742 Page 1: | | | |
| 6104.29.2028 | W/G Ens of Skirts >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6104.59.2040 | W/G Skirts of >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6204.29.4028 | W/G Ens of Skirts of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6204.59.4040 | W/G Skirts of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 743 Page 1: | | | |

| Category/HTS No. | Description | m2ef | Unit |
|---|---|---|---|
| 6103.19.4060 | M/B Suits of >=70% wgt Silk, Knit | 3.76 | No. |
| 6203.19.4060 | M/B Suits of >=70% wgt Silk, not Knit | 3.76 | No. |
| 744 Page 1: | | | |
| 6104.19.2070 | W/G Suits of >=70% wgt Silk, Knit | 3.76 | No. |
| 6204.19.3070 | W/G Suits of >=70% wgt Silk, not Knit | 3.76 | No. |
| 745 Page 1: | | | |
| 6103.29.2064 | M/B Ens of Sweaters of >=70% wgt Silk, Knit | 30.80 | Doz. |
| 6110.90.0016 | M/B Sweaters of >=70% wgt Silk, Knit | 30.80 | Doz. |
| 746 Page 2: | | | |
| 6104.29.2071 | W/G Ens of Sweaters of >=70% wgt Silk, Knit | 30.80 | Doz. |
| 6110.90.0032 | W/G Sweaters of >=70% wgt Silk, Knit | 30.80 | Doz. |
| 6117.90.0016 | Parts of Sweaters of >=70% wgt Silk, Knit | 30.80 | Doz. |
| 747 Page 1: | | | |
| 6103.29.2040 | M/B Ens of Trousers/Shorts etc >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6103.49.3016 | M/B Trousers etc of >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6112.19.2073* | M/B Trousers for Track Suits of >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6203.29.3030 | M/B Ens Trousers etc >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6203.49.3035 | M/B Trousers etc of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6203.49.3050 | M/B Shorts of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6210.40.2017* | M/B Trousers Rubberized of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6211.39.0013* | M/B Track Suit Trousers of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 748 Page 1: | | | |
| 6104.29.2040 | W/G Ens of Trousers >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6104.69.3028 | W/G Trousers etc of >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6112.19.2075* | W/G Trousers for Track Suits >=70% wgt Silk, Knit | 14.90 | Doz. |
| 6117.90.0048 | Parts of Trousers, Breeches etc >=70% wgt Silk, Knit | 14.90 | Doz. |
| 748 Page 2: | | | |
| 6204.29.4040 | W/G Ens of Trousers etc >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6204.69.3040 | W/G Trousers etc of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6210.50.2017* | W/G Trousers Rubberized of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6211.49.0013* | W/G Track Suit Trousers >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 6217.90.0065 | Parts of Trousers etc of >=70% wgt Silk, not Knit | 14.90 | Doz. |
| 750 Page 1: | | | |
| 6107.99.4015* | M/B Bthrobe, Dressng Gwn of >=70% wgt Silk, Knit | 42.60 | Doz. |
| 6108.99.4015* | W/G Bthrobe, Dressng Gwn of >=70% wgt Silk, Knit | 42.60 | Doz. |
| 6207.99.6010 | M/B Bthrobe, Dressng Gwn of >=70% wgt Silk, not Knit | 42.60 | Doz. |
| 6208.99.6010 | W/G Bthrobe, Dressng Gwn of >=70% wgt Silk, not Knit | 42.60 | Doz. |
| 751 Page 1: | | | |
| 6107.29.4010 | M/B Nightshirts/Pajamas >=70% wgt Silk, Knit | 43.50 | Doz. |
| 6107.99.4013* | M/B Other Sleepwear of >=70% wgt Silk, Knit | 43.50 | Doz. |
| 6108.39.2010 | W/G Nightdresses & Pajamas >=70% wgt Silk, Knit | 43.50 | Doz. |
| 6207.29.0020 | M/B Nightshirts & Pajamas >=70% wgt Silk, not Knit | 43.50 | Doz. |
| 6207.99.6036* | M/B Other Sleepwear of >=70% wgt Silk, not Knit | 43.50 | Doz. |
| 6208.29.0020 | W/G Nightdresses & Pajamas >=70% wgt Silk, not Knit | 43.50 | Doz. |
| 752 Page 1: | | | |
| 6107.19.0010 | M/B Underpants/Briefs >=70% wgt Silk, Knit | 13.40 | Doz. |
| 6108.19.0020 | W/G Slips & Petticoats of >=70% wgt Silk, Knit | 13.40 | Doz. |
| 6108.29.0010 | W/G Briefs & panties of >=70% wgt Silk, Knit | 13.40 | Doz. |
| 6108.99.4013* | W/G Underpants/oth Underwear of >=70% wgt Silk, Knit | 13.40 | Doz. |
| 6207.19.0020 | M/B Underpants & Briefs >=70% wgt Silk, not Knit | 13.40 | Doz. |
| 6207.99.6038* | M/B Singlet & other Undershirt >=70% wgt Slk, nt Knt | 13.40 | Doz. |
| 6208.19.4010 | W/G Slips & Petticoats of >=70% wgt Silk, not Knit | 13.40 | Doz. |
| 6208.99.6030 | W/G Brfs, Pnts & Singlets >=70% wgt Silk, not Knit | 13.40 | Doz. |
| 758 Page 1: | | | |
| 6117.20.0040 | Ties, Bow Ties & Cravats of >=70% wgt Silk, Knit | 6.60 | Kg. |
| 6215.10.0040 | Ties & Cravats of >=70% wgt Silk, not Knit | 6.60 | Kg. |
| 759 Page 1: | | | |
| 6103.29.2080 | M/B Ens Nesoi of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6103.49.3039 | M/B Overalls of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6104.29.2086 | W/G Ens Nesoi of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6104.69.3016 | W/G Overalls of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6110.90.0056 | M/B Vests (Exc Swtr Vest) >=70% Wgt Silk, Knit | 14.40 | Kg. |
| 759 Page 2: | | | |
| 6110.90.0058 | W/G Vests (Exc Swtr Vest) >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6112.39.0015* | M/B Swimwear of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6112.49.0015* | W/G Swimwear of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6114.90.0015 | Jumpers of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6114.90.0025 | Sunsuits Washsuits & smlr App >=70% wgt Silk, Knt | 14.40 | Kg. |
| 6114.90.0035 | Coveralls & Similar Apparel >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6114.90.0060 | Other Garments >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6117.80.0040 | Clothing Accessories of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6117.90.0058 | Parts of Garments of >=70% wgt Silk, Knit | 14.40 | Kg. |
| 6203.29.3070 | M/B Ens Nesoi of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6203.49.3010 | M/B Overalls of >=70% wgt Silk, not Knit | 14.40 | Kg. |

| Category/HTS No. | Description | m2ef | Unit |
|---|---|---|---|
| 6204.29.4088 | W/G Ens Nesoi of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6204.69.3060 | W/G Overalls of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6210.40.2018* | M/B Overalls Rubberized of >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6210.40.2019* | M/B Garments Nesoi Rbrized >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6210.50.2018* | W/G Overalls Rubberized of >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 759 Page 3: | | | |
| 6210.50.2019* | W/G Garments Nesoi Rbrized >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6211.11.2030 | M/B Swimwear of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.12.3010 | W/G Swimwear of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.39.0011* | M/B Coverall & Smlr Apparel >=70% wgt Silk, not Knt | 14.40 | Kg. |
| 6211.39.0012* | M/B Washsuits & Smlr Apparel >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6211.39.0016* | M/B Vests of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.39.0018* | M/B Garments Nesoi of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.49.0011* | W/G Coverall & Smlr Apparel >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6211.49.0012* | W/G Washsuits & Smlr Apparel >=70% wgt Silk, nt Knt | 14.40 | Kg. |
| 6211.49.0016* | W/G Jumpers of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.49.0017* | W/G Vests of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6211.49.0019* | W/G Garments Nesoi of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6217.10.0040 | Accessories of >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6217.90.0090 | Parts of Garments Nesoi >=70% wgt Silk, not Knit | 14.40 | Kg. |
| 6505.90.9030 | Hats & oth Headgear of >=70% wgt Silk, Knit | 14.40 | Kg. |

*Denotes a statistical breakout for silk apparel tariff numbers effective April 1, 1994.

[FR Doc. 94–7955 Filed 3–30–94; 11:50 am]
BILLING CODE 3510–DR–M

## Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States; Changes to the 1994 Correlation

March 29, 1994.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Changes to the 1994 correlation.

**FOR FURTHER INFORMATION CONTACT:**

Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

**SUPPLEMENTARY INFORMATION:** The Correlation: Textile and Apparel Categories based on the Harmonized Tariff Schedule of the United States (1994) presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the bilateral agreement program. The Correlation should be amended to include the following HTS numbers which were included in Chapter 70 of the Harmonized Tariff Schedule, effective in August 1993:

| New No. | Description |
|---|---|
| 7019.10.1040 (201) ... | Yarns, not colored, of a kind used in industry as packing or lubricating materials. |
| 7019.10.1080 (201) ... | Yarns, not colored, other than of a kind used in industry as packing or lubricating materials. |

Effective on April 1, 1994, Chapter 61 of the Harmonized Tariff Schedule will be amended as follows:

| Obsolete No. | New No. |
|---|---|
| 6112.39.0020 (859) ... | 6112.39.0090 (859)—Definition remains the same. |
| 6112.49.0020 (859) ... | 6112.49.0090 (859)—Definition remains the same. |

Dated: March 30, 1994.

**Rita A. Hayes,**

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 94–7954 Filed 3–30–94; 11:50 am]
BILLING CODE 3510–DR–M

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and deletions from the Procurement List.

**SUMMARY:** This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

**EFFECTIVE DATE:** May 2, 1994.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On December 17, 1993, January 21, February 4 and 11, 1994, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (58 FR 65971, 59 FR 3332, 5397 and 6622) of proposed additions and deletions to the Procurement List.

### Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

*Commodity*

Sorter, T Card
9905–00–NSH–0236
(Requirements for the National Interagency Fire Center, Boise, Idaho)

*Services*

Grounds Maintenance for the following Phoenix, Arizona locations:
Federal Building and U.S. Courthouse, 230 N. 1st Avenue
Federal Building and U.S. Post Office, 522 N. Central Avenue

Janitorial/Custodial, U.S. Border Station, Building 581 and 588 (2nd Floor), 729 and 801 East San Ysidro Boulevard, San Diego, California

Janitorial/Custodial, Federal Building and U.S. Courthouse, 300 Fannin Street, Shreveport, Louisiana

Janitorial/Custodial, U.S. Courthouse, 500 Pearl Street, New York, New York

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

**Deletions**

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Blackboard
7110–00–132–6651

Protector, Mattress, Hospital Bed
7210–00–761–1470
7210–00–761–1471

**Beverly L. Milkman,**
*Executive Director.*

[FR Doc. 94–7859 Filed 3–31–94; 8:45 am]
BILLING CODE 6820–33–M

## Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to and deletions from procurement List.

**SUMMARY:** The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** May 2, 1994.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2–3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

**Additions**

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statements underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial, U.S. Army Engineer District, Rock Island, Motor Shop, Mississippi River Project & Radio Shop, LeClair Base Complex, Pleasant Valley, IA.
NPA: Association for Retarded Citizens of Rock Island County, Rock Island, Illinois.

Janitorial/Custodial, U.S. Army Reserve Center, 4500 South Lancaster Road, Dallas, Texas.
NPA: Fairweather Associates, Inc., Dallas, Texas.

Janitorial/Custodial, Naval Air Station, Building 976, Whidbey Island, Washington
NPA: New Leaf, Inc., Oak Harbor, Washington.

Toner Cartridge and Ink Jet Remanufacturing, Veterans Administration Medical Center, Seattle, Washington.
NPA: Community Options Resource Enterprises, Inc., Billings, Montana.

**Deletions**

The following commodities have been proposed for deletion from the Procurement List:

Binder, Looseleaf
7510–00–582–5488
7510–00–286–7792
7510–00–286–7791

**Beverly L. Milkman,**
*Executive Director.*

[FR Doc. 94–7860 Filed 3–31–94; 8:45 am]
BILLING CODE 6820–33–P

## Proposed Additions to the Procurement List; Correction

In the document appearing on page 12895 in the third column of FR Doc. 94–6450 in the issue of March 18, 1994 the NSN listed under Case, Carrying should read 1005–00–791–5420.

**Beverly L. Milkman,**
*Executive Director.*

[FR Doc. 94–7861 Filed 3–31–94; 8:45 am]
BILLING CODE 6820–33–P

## Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the procurement list.

**SUMMARY:** This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** May 2, 1994.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On November 29, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (58 FR 62646) of proposed additions to the Procurement List.

Comments were received from one of the current contractors during the development phase of the proposal to add the fasteners to the Procurement List. The commenter stated that the two fasteners it makes for the Government represent a sizeable minority of its business, and loss of this business would cause a severe adverse impact on the company. The commenter indicated that its future would be in jeopardy if it were deprived of the opportunity to bid on the fasteners, and that loss of the contracts would deprive it of the opportunity to hire extra people from the local work force.

The Committee is only proposing to add one of the fasteners the commenter makes to the Procurement List. This fastener represents a small part of the commenter's sales. The Committee does not normally consider loss of the opportunity to bid on a Government contract by itself to constitute severe adverse impact on a contractor because no company is guaranteed a contract under the competitive bidding system. As the commenter admits, it lost the bidding for this fastener in 1992. Given this contracting history, the commenter cannot be said to be unusually dependent on the contract as it has not been a continuous supplier. Consequently, loss of its contract for this fastener and the opportunity to bid on future contracts for it would not constitute severe adverse impact on the commenter.

While the commenter has indicated that without the Government contracts it would not be able to hire extra people, it has not shown that it would be required to discharge workers if it cannot obtain a contract for the one fastener it makes which the Committee is adding to the Procurement List. Even if it could, the Committee believes that the creation of jobs for people with severe disabilities, who have very high unemployment rates, outweighs the possible loss of employment for workers with lower unemployment rates.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

**Fastener, Paper**

7510–00–161–4284
7510–00–223–6813
7510–00–223–6814
7510–00–223–6815
7510–00–291–0140
7510–00–634–2463

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 94–7862 Filed 3–31–94; 8:45 am]

BILLING CODE 6820–33–P

## DEPARTMENT OF EDUCATION

### Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before May 2, 1994.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

**FOR FURTHER INFORMATION CONTACT:** Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement;

(2) Title;

(3) Frequency of collection;

(4) The affected public;
(5) Reporting burden; and/or
(6) Recordkeeping burden; and
(7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: March 29, 1994.

**Cary Green,**

*Director, Information Resources Management Service.*

**Office of Postsecondary Education**

*Type of Review:* Revision.
*Title:* Lender's Interest and Special Allowance Request.
*Frequency:* Quarterly.
*Affected Public:* State or local governments; Businesses or other for-profit.
*Reporting Burden:*
*Responses:* 42,176.
*Burden Hours:* 84,352.
*Recordkeeping Burden:*
*Recordkeepers:* 10,544.
*Burden Hours:* 18,452.
*Abstract:* This form will be used by lenders participating in the part B loan programs to request payment of interest and special allowance on loans outstanding. The Department will use the information to enhance departmental reporting for budgetary projections, program planning and evaluations, departmental audits, and financial and statistical reporting on Part B loan programs.

**Office of Postsecondary Education**

*Type of Review:* New.
*Title:* Noncompeting Continuation Applications Under the Minority Science Program.
*Frequency:* Annually.
*Affected Public:* Non-profit institutions.
*Reporting Burden:*
*Responses:* 100.
*Burden Hours:* 700.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* This form will be used by eligible higher education institutions to apply for continued funding under the Minority Science Improvement Program. The Department will use the information to make grant awards under this multi-year grant.

**Office of the Under Secretary**

*Type of Review:* New.
*Title:* Even Start Information System.
*Frequency:* Annually.
*Affected Public:* Individuals or households.
*Reporting Burden:*
*Responses:* 71,280.
*Burden Hours:* 53,460.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* The Even Start Information System involves the refinement and maintenance of a data collection system, collection and analysis of additional outcome data from a sample of Even Start projects, training of local Even Start project directors in data collection and technical assistance to them, and preparation of final reports. The Department will use the information to provide Congress, state program administrators, and local grantees with the types of information that can be used to manage the program at the federal, state, and local levels.

**Office of Special Education and Rehabilitative Services**

*Type of Review:* Revision.
*Title:* State Plan under part B of the Individuals with Disabilities Education Act.
*Frequency:* Triennial.
*Affected Public:* State or local governments; Federal agencies or employees.
*Reporting Burden:*
*Responses:* 19.
*Burden Hours:* 551.
*Recordkeeping Burden:*
*Recordkeepers:* 0.
*Burden Hours:* 0.
*Abstract:* States are required to submit an approved State plan to the U.S. Department of Education in order to receive funds under part B of the Individuals with Disabilities Education Act. The information will be used for determinations for grant awards, compliance monitoring, accountability to the Secretary of Education, and technical assistance requirements.

**Office of Special Education and Rehabilitative Services**

*Type of Review:* Reinstatement.
*Title:* List of Hearing Officers Recordkeeping.
*Frequency:* Recordkeeping.
*Affected Public:* State or local governments.
*Reporting Burden:*
*Responses:* 0.
*Burden Hours:* 0.
*Recordkeeping Burden:*
*Recordkeepers:* 16,000.
*Burden Hours:* 1,600.
*Abstract:* Each public agency in States receiving funds under part B of the Individuals with Disabilities Education Act must keep a list of persons who serve as hearing officers, along with their qualifications. The list serves to inform interested parties of the training and abilities of persons serving as impartial hearing officers.

[FR Doc. 94-7827 Filed 3-31-94; 8:45 am]
BILLING CODE 4000-01-M

## National Assessment Governing Board; Meeting

**AGENCY:** National Assessment Governing Board.

**ACTION:** Amendment to notice of a teleconference meeting.

**SUMMARY:** This amends the notice of a teleconference meeting of the Executive Committee of the National Assessment Governing Board published on March 17, 1994 in Vol. 59, No. 52, page 12586. The April 5, 1994 meeting of the Executive Committee of the National Assessment Governing Board has been changed to April 11, 1994. The meeting time and location are unchanged.

**DATE:** April 11, 1994.

**TIME:** 11 a.m. (EST).

**LOCATION:** 800 North Capitol Street NW., suite 825, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 800 North Capitol Street NW., Washington, DC 20002-4233. Telephone: 202-357-6938.

Dated: March 28, 1994.

**Roy Truby,**

*Executive Director, National Assessment Governing Board.*

[FR Doc. 94-7805 Filed 3-31-94; 8:45 am]
BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER94-311-000, et al.]**

### Illinois Power Company, et al.; Electric Rate and Corporate Regulation Filings

March 28, 1994.

Take notice that the following filings have been made with the Commission:

**1. Illinois Power Co.**

[Docket No. ER94-311-000]

Take notice that on February 10, 1994, Illinois Power Company tendered for filing an amendment in the above-referenced docket.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**2. PowerNet G.P.**

[Docket No. ER94-931-000]

Take notice that on March 16, 1994, PowerNet G.P. tendered for filing an amendment to its January 24, 1994 filing in the above-referenced docket.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

*3. Carolina Power & Light Co.*

[Docket No. ER94-1028-000]

Take notice that on March 10, 1994, Carolina Power & Light Company (CP&L) tendered for filing revised Exhibit A for the Randolph Electric Membership Corporation.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**4. PacifiCorp**

[Docket No. ER94-1065-000]

Take notice that PacifiCorp on March 21, 1994, tendered for filing Revision No. 1 of appendix A and Revision No. 1 of appendix E for the Transmission Service and Operating Agreement between PacifiCorp and Deseret Generation & Transmission Cooperative (Deseret) dated May 1, 1992.

PacifiCorp requests that a waiver of prior notice be granted and an effective date of March 20, 1994 be assigned to Revision No. 1 of appendix A and to Revision No. 1 of appendix E.

Copies of this filing were supplied to Deseret, the Utah Public Service Commission and the Public Utility Commission of Oregon.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94-7820 Filed 3-31-94; 8:45 am]

BILLING CODE 6717-01-P

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**[Docket No. EL92-41-002, et al.]**

## Nevada Power Co., et al.; Electric Rate and Corporate Regulation Filings

March 25, 1994.

Take notice that the following filings have been made with the Commission:

**1. Nevada Power Co.**

[Docket No. EL92-41-002]

Take notice that Nevada Power Company (NPC) on March 17, 1994, filed a Compliance Report describing calculations of Commission-ordered refunds of carrying charges on amounts NPC collected through its wholesale fuel adjustment charge to the City of Needles, California (Needles). The report also seeks clarification regarding how to recover that portion of the refund provided to Needles which was in excess of that ordered by the Commission. The report certifies that the refund was distributed by a check payable to Needles accompanying a letter dated March 4, 1994.

Copies of this filing were served on Needles and the Nevada Public Service Commission.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**2. Public Service Company of New Mexico**

[Docket No. EL94-6-000]

Take notice that on March 11, 1994, Public Service Company of New Mexico (PNM) tendered for filing as supplemental materials in this proceeding copies of three New Mexico Public Utility Commission final orders, in Cases 1804, 2146 (Part II) and 2262. PNM states that these three orders illustrate the need to deviate in dispatch and/or fuel cost accounting from economic norms.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**3. Delmarva Power & Light Co.**

[Docket No. EL94-48-000]

Take notice that on March 21, 1994, Delmarva Power & Light Company tendered for filing a petition for waiver pursuant to section 207 of the Commission's Rules and the policy established by the Commission in an order issued on November 29, 1993 in Western Resources, Inc. 65 FERC ¶61,271 (1993) in order for the Company to lock in the period over which "time value" refunds with respect to coal mine closing costs which the Company collected through its wholesale fuel adjustment clause in 1989-92 and which are the subject of a pending audit. The Company requests that the period for determining the time value of money be deemed to end on July 1, 1992 when the Company was informed of Staff's objections and would have made this filing if the Western Resources policy had been in effect.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**4. Niagara Mohawk Power Corp.**

[Docket No. ER94-1033-000]

Take notice that on March 14, 1994, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a cancellation of its Rate Schedule No. 90 as amended, which is an agreement dated February 14, 1974 between Niagara Mohawk and Consolidated Edison Company of New York, Inc. (Con Ed). Therein, Niagara Mohawk agreed to provide certain transmission services on behalf of Con Edison for generation associated with the New York State Power Authority's James A. Fitzpatrick Nuclear Plant.

Niagara Mohawk states that copies of its report were served on the New York State Public Service Commission and Con Ed.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**5. Central Vermont Public Service Corp.**

[Docket No. ER94-1049-000]

Take notice that on March 7, 1994, Central Vermont Public Service Corporation (CVPSC) tendered for filing a Notice of Termination of FERC Rate Schedule 147 from Docket No. ER93-302-000.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**6. Florida Power & Light Co.**

[Docket No. ER94-1051-000]

Take notice that on March 16, 1994, Florida Power & Light Company (FPL) tendered for filing a Notice of Cancellation of FPL's Partial Requirements Service to the City of Vero Beach, Florida and the Fort Pierce Utilities Authority.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**7. Maine Public Service Co.**

[Docket No. ER94–1052–000]

Take notice that on March 15, 1994, Maine Public Service Company (Maine Public) filed executed Service Agreements with Northeast Utilities Service Company and Central Vermont Public Service Company. Maine Public Service states that the service agreements are being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public has requested that the service agreements become effective on March 1, 1994 and requests waiver of the Commission's regulations regarding filing.

*Comment date:* April 8, 1994, in accordance with Standard Paragraph E at the end of this notice.

**8. Montaup Electric Co., Newport Electric Co.**

[Docket No. ER94–1062–000]

Take notice that on March 21, 1994, Montaup Electric Company tendered for filing: (a) A reduction in the present M–13 rate by $10.1 million, or 3.0%, on the basis of the 1994 test year used in preparing the filing, (b) a marginal cost, time-of-use rate design intended to send more accurate price signals to Montaup's customers, (c) notices of cancellation and agreements required to terminate contract demand service to Newport Electric Corporation and to make Newport an all-requirements customer, and (d) a request for waiver of the fuel clause regulations to permit recovery of nuclear fuel contract buyout costs. The filing is requested to become effective in 60 days, on May 21, 1994 except for the provision for buyout cost recovery, which is requested to become effective when Seabrook resumes operation after its next reload.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**9. Northern States Power Co. (Minnesota Co.)**

[Docket No. ER94–1066–000]

Take notice that on March 21, 1994, Northern States Power Company (Minnesota) (NSP) tendered for filing Supplement No. 1 to the Transmission and Transformation Service Agreement between NSP and the State Board of Higher Education for the University of North Dakota (Customer). NSP presently provides certain On Line transmission services to the Customer pursuant to the Transmission and Transformation Service Agreement dated March 20, 1985, prior to putting Supplement No. 1 into effect. NSP Rate Schedule FERC No. 440. Supplement No. 1 will replace the transmission service portion of the Transmission and Transformation Service Agreement, and sets forth the terms and conditions and rates for service to the Customer through December 31, 2012.

NSP requests that Supplement No. 1 to the Transmission and Transformation Service Agreement be accepted for filing effective May 20, 1994.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**10. El Paso Electric Co.**

[Docket No. ES94–18–000]

Take notice that on March 22, 1994, El Paso Electric Company (El Paso) filed application under section 204 of the Federal Power Act seeking authorization: (1) To assume liability in connection with the redemption and reissuance of not more than $63.5 million of pollution control revenue bonds (PCRBs) to be issued by Maricopa County, Arizona Pollution Control Corporation, (2) to issue second mortgage bonds in an amount equal to the principal amount of the PCRBs to secure El Paso's obligation for payment of the PCRBs, and (3) to assume liability for a new letter of credit that will be issued to secure the replacement PCRBs. Also, El Paso requests exemption from the Commission's competitive bidding and negotiated placement regulations.

*Comment date:* April 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7822 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–P

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**[Docket Nos. ST94–3889–000, et. al.**

## Columbia Gas Transmission Corp., Self-Implementing Transactions

March 25, 1994.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 7 of the NGA and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

A "G–I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's regulations.

**Lois D. Cashell,**

*Secretary.*

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/ N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94–3889 | Columbia Gas Transmission Corp. | Paramont Transmission Corp. | 02–01–94 | G–ST | N/A | N | I | 01–27–94 | Indef. |
| ST94–3890 | Arkansas Western Pipeline Co. | Associated Natural Gas Co. | 02–01–94 | G–LT | 1,000 | A | I | 12–01–93 | 11–30–94 |
| ST94–3891 | Noark Pipeline System, L.P. | Texas Eastern Trans. Corp., et al. | 02–01–94 | C | 110,000 | N | I | 09–18–92 | Indef. |
| ST94–3892 | Noark Pipeline System, L.P. | Mississippi Riv. Trans., et al. | 02–01–94 | C | 45,000 | N | I | 01–01–93 | Indef. |
| ST94–3893 | Noark Pipeline System, L.P. | Texas Eastern Trans. Corp., et al. | 02–01–94 | C | 50,000 | N | I | 11–01–93 | Indef. |
| ST94–3894 | Noark Pipeline System, L.P. | Arkansas Western Pipeline Co. | 02–01–94 | C | 1,000 | N | I | 12–01–93 | Indef. |
| ST94–3895 | ark Pipeline System, L.P. | Texas Eastern Trans. Corp., et al. | 02–01–94 | C | 15,000 | N | I | 01–01–94 | Indef. |
| ST94–3896 | ONG Transmission Co. | ANR Pipeline Co ... | 02–02–94 | C | 50,000 | N | I | 01–15–94 | Indef. |
| ST94–3897 | ONG Transmission Co. | Northern Natural Gas Co. | 02–02–94 | C | 100,000 | N | I | 01–04–94 | Indef. |
| ST94–3898 | ONG Transmission Co. | Williams Natural Gas Co. | 02–02–94 | C | 30,000 | N | I | 01–19–94 | Indef. |
| ST94–3899 | Louisiana Intrastate Gas Corp. | ANR Pipeline Co., et al. | 02–02–94 | C | 10,000 | N | I | 01–01–94 | 01–01–96 |
| ST94–3900 | Bridgeline Gas Distribution LLC. | Columbia Gulf Transmission Co. | 02–02–94 | C | 4,893 | N | I | 01–18–94 | 01–31–94 |
| ST45–3901 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co., et al. | 02–02–94 | C | 100,000 | N | I | 12–01–93 | Indef. |
| ST94–3902 | Northern Natural Gas Co., | Nebraska Public Gas Agency. | 02–02–94 | G–S | 75 | N | F | 01–24–94 | 01–23–04 |
| ST94–3903 | Northern Natural Gas Co. | West Texas Utilities Co. | 02–02–94 | G–S | 5,000 | N | F | 01–15–94 | 01–14–99 |
| ST94–3994 | Northern Natural Gas Co. | Meridian Oil Trading, Inc. | 02–02–94 | G– | 50,000 | N | F | 02–04–93 | 02–03–94 |
| ST94–3905 | Florida Gas Transmission Co. | Vestar Natural Gas Marketing, Inc. | 02–02–94 | G–S | 50,000 | N | I | 01–20–94 | Indef. |
| ST94–3906 | Tennessee Gas Pipeline Co. | Mark West Hydrocarbon Partners Ltd. | 02–02–94 | G–S | 8,000 | N | F | 01–04–94 | Indef. |
| ST94–3907 | Tennessee Gas Pipeline Co. | MG Natural Gas Corp. | 02–02–94 | G–S | 2,000 | N | F | 01–06–94 | Indef. |
| ST94–3908 | Midwestern Gas Transmission Co. | Direct Gas Supply Corp. | 02–02–94 | G–S | 50,000 | N | I | 01–18–94 | Indef. |
| ST94–3909 | Tennessee Gas Pipeline Co. | Clinton Gas Marketing, Inc. | 02–02–94 | G–S | 28,461 | N | F | 01–26–94 | Indef. |
| ST94–3910 | Tennessee Gas Pipeline Co. | Western Kentucky Gas Co. | 02–02–94 | G–S | 3,500 | N | F | 01–18–94 | Indef. |
| ST94–3911 | K N Interstate Gas Trans. Co. | Colorado Interstate Gas Co. | 02–03–94 | G–S | 6,000 | N | I | 01–08–94 | Indef. |
| ST94–3912 | Sabine Pipe Line Co. | Prior Intrastate Corp. | 02–03–94 | G–S | 75,000 | N | I | 01–20–94 | Indef. |
| ST94–3913 | Bridgeline Gas Distribution LLC. | Columbia Gulf Transmission Co. | 02–02–94 | G–HT | 4,893 | N | I | 01–18–94 | 01–31–94 |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94-3915 | Columbia Gas Transmission Corp. | Columbiana Boiler Co. | 02-03-94 | G-S | 80 | N | F | 02-01-94 | 12-31-94 |
| ST94-3916 | Columbia Gas Transmission Corp. | Stand Energy ..... | 02-03-94 | G-S | 150 | N | F | 02-01-94 | 03-31-94 |
| ST94-3917 | Columbia Gas Transmission Corp. | Central Soya Co., Inc. | 02-03-94 | G-ST | N/A | N | I | 02-01-94 | Indef. |
| ST94-3918 | Valero Transmission, L.P. | Tennessee Gas Pipeline Co. | 02-03-94 | C | 5,000 | N | I | 01-13-94 | Indef. |
| ST94-3919 | Algonquin Gas Transmission co. | Iroquois Gas Transmission System. | 02-03-94 | G-S | 3,000 | N | I | 10-02-93 | Indef. |
| ST94-3920 | Colorado Interstate Gas Co. | Universial Resources Corp. | 02-03-94 | G-S | 3,200 | N | F | 02-01-94 | 09-30-94 |
| ST94-3921 | Channel Industries Gas Co. | Nat. Gas P/L Co. of America, et al. | 02-04-94 | C | 50,000 | A | I | 01-06-94 | Indef. |
| ST94-3922 | Superior Offshore Pipeline Co. | Texican Natural Gas Co. | 02-04-94 | B | 25,000 | N | I | 12-01-93 | Indef. |
| ST94-3923 | Superior Offshore Pipeline Co. | Texican Natural Gas Co. | 02-04-94 | B | 25,000 | N | I | 12-01-93 | Indef. |
| ST94-3924 | Superior Offshore Pipeline Co. | Chevron U.S.A., Inc. | 02-04-94 | G-S | 50,000 | N | I | 12-01-93 | Indef. |
| ST94-3925 | Superior Offshore Pipeline Co. | Chevron U.S.A., Inc. | 02-04-94 | G-S | 50,000 | N | I | 12-01-93 | Indef. |
| ST94-3926 | Mobile Bay Pipeline Co. | National Gas Resources Ltd. | 02-04-94 | G-S | 20,000 | N | I | 01-15-94 | Indef. |
| ST94-3927 | Koch Gateway Pipeline Co. | Willmut Gas & Oil Co. | 02-04-94 | G-S | 5,000 | N | F | 01-17-94 | 01-17-94 |
| ST94-3928 | Koch Gateway Pipeline Co. | Akzo Chemicals, Inc. | 02-04-94 | G-S | 4,500 | N | F | 02-01-94 | 03-03-94 |
| ST94-3929 | Koch Gateway Pipeline Co. | Columbia Gas of Ohio. | 02-04-94 | G-S | 1,066 | N | F | 01-17-94 | 02-28-94 |
| ST94-3930 | Koch Gateway Pipeline Co. | Pennzoil Gas Marketing Co. | 02-04-94 | G-S | N/A | N | I | 01-15-94 | Indef. |
| ST94-3931 | Koch Gateway Pipeline Co. | Cytec Industries .... | 02-04-94 | G-S | N/A | N | I | 01-17-94 | Indef. |
| ST94-3932 | Koch Gateway Pipeline Co. | Michael Gas Marketing Co. | 02-04-94 | G-S | N/A | N | I | 01-17-94 | Indef. |
| ST94-3933 | Koch Gateway Pipeline Co. | Arco Natural Gas Marketing, Inc. | 02-04-94 | G-S | N/A | N | I | 01-15-94 | Indef. |
| ST94-3934 | Koch Gateway Pipeline Co. | Prior Intrastate Corp. | 02-04-94 | G-S | 3,500 | N | F | 01-15-94 | 02-28-94 |
| ST94-3935 | Koch Gateway Pipeline Co. | Midcon Gas Services Corp. | 02-04-94 | G-S | 5,000 | N | F | 02-01-94 | 06-01-94 |
| ST94-3936 | Columbia Gas Transmission Corp. | Interstate Gas Marketing, Inc. | 02-04-94 | G-S | 41 | N | F | 02-01-94 | Indef. |
| ST94-3937 | Williston Basin Inter. P/L Co. | Montana-Dakota Utilities Co. | 02-04-94 | G-S | 50,000 | N | I | 01-05-94 | 12-31-95 |
| ST94-3938 | El Paso Natural Gas Co. | Richardson Products Co., Ltd. | 02-07-94 | G-S | 41,200 | N | I | 01-08-94 | Indef. |
| ST94-3939 | El Paso Natural Gas Co. | Shell Gas Trading Co. | 02-07-94 | G-S | 20,600 | N | I | 01-08-94 | Indef. |
| ST94-3940 | Tennessee Gas Pipeline Co. | Energynorth Natural Gas, Inc. | 02-08-94 | G-S | 37,130 | N | I | 01-13-94 | Indef. |
| ST94-3941 | Tennessee Gas Pipeline Co. | Connecticut Natural Gas Corp. | 02-08-94 | G-S | 13,170 | N | F | 01-13-94 | Indef. |
| ST94-3942 | Columbia Gas Transmission Corp. | Transport Gas Corp. | 02-08-94 | G-ST | N/A | N | I | 02-04-94 | Indef. |
| ST94-3943 | Columbia Gas Transmission Corp. | Enron Access Corp | 02-08-94 | G-S | 68 | N | F | 02-01-94 | 03-031-94 |
| ST94-3944 | Columbia Gas Transmission Corp. | Enron Access Corp | 02-08-94 | G-S | 66 | N | F | 02-01-94 | 01-31-95 |
| ST94-3945 | Williams Natural Gas Co. | Ward Gas Service Co. | 02-08-94 | G-S | 25,000 | N | I | 12-02-93 | 12-01-94 |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/ N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94-3946 | Valero Transmission L.P. | Texas Eastern Transmission Corp. | 02-07-94 | C | 10,000 | N | I | 01-19-94 | Indef. |
| ST94-3947 | TransTexas Pipeline. | Trunkline Gas Co .. | 02-07-94 | C | 10,000 | N | I | 01-14-94 | Indef. |
| ST94-3948 | Northern Natural Gas Co. | Vintage Gas, Inc ... | 02-09-94 | G-S | 20,000 | N | I | 09-02-93 | Indef. |
| ST94-3949 | Valero Transmission, L.P. | Koch Gateway Pipeline Co. | 02-09-94 | C | 12,000 | N | I | 01-27-94 | Indef. |
| ST94-3950 | El Paso Natural Gas Co. | Maralo, Inc ..... | 02-09-94 | G-S | 2,575 | N | I | 01-14-94 | Indef. |
| ST94-3951 | Koch Gateway Pipeline Co. | Sigco Marketing, Inc. | 02-10-94 | G-S | 800 | N | F | 11-01-93 | Indef. |
| ST94-3952 | Koch Gateway Pipeline Co. | Koch Gas Services Co. | 02-10-94 | G-S | 1,745 | N | F | 01-15-94 | Indef. |
| ST94-3953 | Koch Gateway Pipeline. | Frito-Lay, Inc. ..... | 02-10-94 | G-S | N/A | N | I | 01-21-94 | Indef. |
| ST94-3954 | Koch Gateway Pipeline Co. | Prior Intrastate Corp. | 02-10-94 | G-S | 500 | N | F | 01-21-94 | Indef. |
| ST94-3955 | Koch Gateway Pipeline Co. | Diamond Shamrock Offshore Part. Ltd. | 02-10-94 | G-S | N/A | N | I | 02-01-94 | Indef. |
| ST94-3956 | Koch Gateway Pipeline Co. | Prior Intrastate Corp. | 02-10-94 | G-S | 130 | N | F | 01-21-94 | Indef. |
| ST94-3957 | Koch Gateway Pipeline Co. | Prior Intrastate Corp. | 02-10-94 | G-S | 1,500 | N | F | 01-21-94 | Indef. |
| ST94-3958 | Koch Gateway Pipeline Co. | Prior Intrastate Corp. | 02-10-94 | G-S | 550 | N | F | 02-01-94 | 03-01-94 |
| ST94-3959 | Tennessee Gas Pipeline Co. | Elizabethtown Gas Co. | 02-10-94 | G-S | 2,991 | N | F | 01-19-94 | Indef. |
| ST94-3960 | Tennessee Gas Pipeline Co. | Piedmont Natural Gas Co. | 02-10-94 | G-S | 60,000 | N | I | 01-17-94 | Indef. |
| ST94-3961 | Tennessee Gas Pipeline Co. | Union Oil Co. of California. | 02-10-94 | G-S | 10,000 | N | I | 01-13-94 | Indef. |
| ST94-3962 | Tennessee Gas Pipeline Co. | American Hunter Energy. | 02-10-94 | G-S | 50,000 | N | I | 01-18-94 | Indef. |
| ST94-3963 | Midwestern Gas Transmission Co. | Northern Illinois Gas Co. | 02-10-94 | G-S | 700,000 | N | I | 01-17-94 | Indef. |
| ST94-3964 | Algonquin Gas Transmission Co. | Boston Gas Co ..... | 02-14-94 | G-S | 2,068 | N | I | 01-27-94 | Indef. |
| ST94-3965 | Algonquin Gas Transmission Co. | Distrigas of Massachusetts Corp. | 02-14-94 | B | 290 | N | F | 01-20-94 | Indef. |
| ST94-3966 | Algonquin Gas Transmission Co. | Orange and Rockland Utilities, Inc. | 02-14-94 | B | 381 | N | F | 01-15-94 | Indef. |
| ST94-3967 | Algonquin Gas Transmission Co. | KCS Energy Marketing, Inc. | 02-14-94 | G-S | 150,000 | N | I | 01-21-94 | Indef. |
| ST94-3968 | Algonquin Gas Transmission Co. | Connecticut Natural Gas Corp. | 02-14-94 | G-S | 293 | N | I | 01-15-94 | Indef. |
| ST94-3969 | Algonquin Gas Transmission Co. | Bristol and Warren Gas Co. | 02-14-94 | B | 537 | N | I | 01-19-94 | Indef. |
| ST94-3970 | Algonquin Gas Transmission Co. | Commonwealth Gas Co. | 02-14-94 | G-S | 4,342 | N | I | 01-25-94 | Indef. |
| ST94-3971 | Channel Industries Gas Co. | Transwestern Pipeline Co. | 02-14-94 | C | 50,000 | N | I | 01-13-94 | Indef. |
| ST94-3972 | Tennessee Gas Pipeline Co. | Transco Gas Marketing Co. | 02-14-94 | G-S | 14,000 | N | F | 01-14-94 | 01-31-94 |
| ST94-3973 | Tennessee Gas Pipeline Co. | Associated Natural Gas Co. | 02-14-94 | G-S | 20,000 | N | F | 01-26-94 | 01-31-94 |
| ST94-3974 | Tennessee Gas Pipeline Co. | Eastex Hydrocarbons, Inc. | 02-14-94 | G-S | 750 | N | F | 01-20-94 | Indef |
| ST94-3975 | Tennessee Gas Pipeline Co. | Hilcorp. Energy Co | 02-14-94 | G-S | 100 | N | I | 01-28-94 | Indef. |
| ST94-3976 | Texas Eastern Transmission Corp. | Appalachian Gas Sales. | 02-14-94 | G-S | 240,000 | N | I | 01-25-94 | 03-31-94 |
| ST94-3977 | Texas Eastern Transmission Corp. | City of Hamilton ..... | 02-14-94 | G-S | 55,000 | N | I | 01-14-94 | 11-30-94 |
| ST94-3978 | Texas Eastern Transmission Corp. | Con Edison Gas Marketing, Inc. | 02-14-94 | G-S | 150,000 | N | I | 01-22-94 | 12-05-94 |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94–3979 | Texas Eastern Transmission Corp. | Woodward Marketing, Inc. | 02–14–94 | G–S | 19,750 | N | I | 01–18–94 | 03–31–94 |
| ST94–3980 | Texas Eastern Transmission Corp. | Woodward Marketing, Inc. | 02–14–94 | G–S | 10,000 | N | I | 01–19–94 | 03–31–94 |
| ST94–3981 | Texas Eastern Transmission Corp. | Philadelphia Electric Co. | 02–14–94 | G–S | 238,000 | N | I | 02–02–94 | 05–30–94 |
| ST94–3982 | Texas Eastern Transmission Corp. | Seagull Marketing Services, Inc. | 02–14–94 | G–S | 340,000 | N | I | 01–19–94 | 03–31–94 |
| ST94–3983 | Texas Eastern Transmission Corp. | Panhandle Trading Co. | 02–14–94 | G–S | 103,500 | A | I | 01–17–94 | 09–30–94 |
| ST94–3984 | Panhandle Eastern Pipeline Co. | National Helium Corp. | 02–14–94 | G–S | 5,000 | A | F | 11–01–93 | 01–31–94 |
| ST94–3985 | Truckline Gas Co .. | Chesapeake Energy Corp. | 02–14–94 | G–S | 25,000 | N | I | 01–21–94 | Indef. |
| ST94–3986 | Truckline Gas Co .. | Union Pacific Fuels, Inc. | 02–14–94 | G–S | 100,00 | N | I | 01–29–94 | Indef. |
| ST94–3987 | Truckline Gas Co .. | Direct Gas Supply Corp. | 02–14–94 | G–S | 36,225 | N | I | 01–13–94 | Indef. |
| ST94–3988 | Trunkline Gas Co .. | Direct Gas Supply Corp. | 02–14–94 | G–S | 25,875 | N | I | 01–13–94 | Indef. |
| ST94–3989 | Northern Natural Gas Co. | W. Waldo Lynch .... | 02–14–94 | G–S | 120 | N | F/I | 11–01–93 | Indef. |
| ST94–3990 | Northern Natural Gas Co. | Community Utility Co. | 02–14–94 | G–S | 503 | N | F/I | 11–01–93 | 10–31–98 |
| ST94–3991 | Northern Natural Gas Co. | Texaco Exploration & Production. | 02–14–94 | G–S | 50,000 | N | F/I | 01–01–94 | 04–02–95 |
| ST94–3992 | Northern Natural Gas Co. | Ballard Exploration Co., Inc. | 02–14–94 | G–S | 10,000 | N | F/I | 01–01–94 | 01–02–96 |
| ST94–3993 | Northern Natural Gas Co. | Vantage Point Energy, Inc. | 02–14–94 | G–S | 750 | N | F/I | 12–01–93 | 11–30–95 |
| ST94–3994 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 17,080 | A | F | 01–13–94 | 01–31–94 |
| ST94–3995 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 2,300 | A | F | 01–13–94 | 01–13–94 |
| ST94–3996 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02–14–94 | G–S | 13,300 | N | F | 02–01–94 | 02–28–94 |
| ST94–3997 | Transwestern Pipeline Co. | GPM Gas Corp ..... | 02–14–94 | G–S | 15,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–3998 | Northern Natural Gas Co. | Wisconsin Gas Co | 02–14–94 | G–S | 3,605 | N | F | 01–08–94 | Indef. |
| ST94–3999 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 26,600 | N | F | 02–01–94 | 02–28–94 |
| ST94–4000 | Transwestern Pipeline Co. | Richardson Products Co. | 02–14–94 | G–S | 53,400 | A | F | 02–01–94 | 02–28–94 |
| ST94–4001 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02–14–94 | G–S | 29,600 | N | F | 02–01–94 | 02–28–94 |
| ST94–4002 | Transwestern Pipeline Co. | Clayton Williams Energy Inc. | 02–14–94 | G–S | 3,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4003 | Northern Natural Gas Co. | Coenergy Trading Co. | 02–14–94 | G–S | 20,000 | N | I | 01–13–94 | 05–12–94 |
| ST94–4004 | Transwestern Pipeline Co. | Twister Transmission Co. | 02–14–94 | G–S | 25,000 | N | I | 01–13–94 | Indef. |
| ST94–4005 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02–14–94 | G–S | 13,332 | N | F | 02–01–94 | 02–28–94 |
| ST94–4006 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02–14–94 | G–S | 10,206 | N | F | 02–01–94 | 02–28–94 |
| ST94–4007 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02–14–94 | G–S | 9,100 | N | F | 02–01–94 | 02–28–94 |
| ST94–4008 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02–14–94 | G–S | 5,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4009 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 2,300 | A | F | 01–19–94 | 01–31–94 |
| ST94–4010 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02–14–94 | G–S | 35,000 | N | F | 01–15–94 | 01–31–94 |
| ST94–4011 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 2,300 | A | F | 01–15–94 | 01–18–94 |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94–4012 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–14–94 | G–S | 2,798 | A | F | 01–15–94 | 01–31–94 |
| ST94–4013 | Transwestern Pipeline Co. | Equitable Resources Marketing Co. | 02–14–94 | G–S | 10,000 | N | F | 01–14–94 | 01–31–94 |
| ST94–4014 | K N Interstate Gas Trans. Co. | Snyder Gas Marketing, Inc. | 02–14–94 | G–S | 15,000 | N | I | 01–28–94 | Indef. |
| ST94–4015 | Williams Natural Gas Co. | Brock Gas Systems & Equitable, Inc. | 02–14–94 | G–S | 350 | N | I | 01–20–94 | Indef. |
| ST94–4016 | Williams Natural Gas Co. | CIG Merchant ..... | 02–14–94 | G–S | 1,000 | N | I | 02–08–94 | Indef. |
| ST94–4017 | Williams Natural Gas Co. | Peoples Natural Gas Co. | 02–14–94 | G–S | 30,000 | N | I | 12–01–93 | Indef. |
| ST94–4018 | Transcontinental Gas P/L Corp. | UGI Utilities, Inc .... | 02–14–94 | B | 690,000 | N | I | 12–24–94 | Indef. |
| ST94–4019 | Lone Star Gas Co . | Arkla Energy Resources, et al. | 02–14–94 | C | 100,000 | N | I | 01–13–94 | Indef. |
| ST94–4020 | Lone Star Gas Co . | Northern Natural Gas Co., et al. | 02–14–94 | C | 30,000 | N | I | 01–14–94 | Indef. |
| ST94–4021 | Valero Transmission, L.P. | Union Carbide ..... | 02–14–94 | C | 3,383 | N | I | 02–01–94 | Indef. |
| ST94–4022 | Valero Transmission, L.P. | Texas Eastern Transmission Corp. | 02–14–94 | C | 700 | N | I | 02–01–94 | Indef. |
| ST94–4023 | TransTexas Pipeline. | Texas Eastern Transmission Corp. | 02–14–94 | C | 700 | N | I | 02–01–94 | Indef. |
| ST94–4024 | Columbia Gas Transmission Corp. | Kerr McGee Corp .. | 02–14–94 | G–S | 10,000 | N | I | 02–07–94 | Indef. |
| ST94–4025 | Columbia Gas Transmission Corp. | UGI Utilities, Inc .... | 02–14–94 | G–S | N/A | N | I | 02–05–94 | Indef. |
| ST94–4026 | Columbia Gas Transmission Corp. | Appalachian Gas Sales. | 02–14–94 | G–S | N/A | N | I | 02–05–94 | Indef. |
| ST94–4027 | Columbia Gas Transmission Corp. | Wickford Energy Marketing LC. | 02–14–94 | G–S | 5,000 | N | I | 02–03–94 | Indef. |
| ST94–4028 | Columbia Gas Transportation Corp. | O & R Energy, Inc . | 02–14–94 | G–S | 2,800 | N | I | 02–04–94 | 02–28–94 |
| ST94–4029 | El Paso Natural Gas Co. | Shell Gas Trading Co. | 02–14–94 | G–S | 41,200 | N | I | 01–15–94 | Indef. |
| ST94–4030 | Williams Natural Gas Co. | Tristar Gas Co ..... | 02–14–94 | G–S | 20,000 | N | I | 01–19–94 | Indef. |
| ST94–4031 | TransTexas Pipeline. | Tennessee Gas Pipeline Co. | 02–15–94 | C | 25,000 | N | I | 02–03–94 | Indef. |
| ST94–4032 | TransTexas Pipeline. | Koch Gateway Pipeline Co. | 02–15–94 | C | 25,000 | N | I | 02–03–94 | Indef. |
| ST94–4033 | MIGC, Inc ..... | Beartooth Oil & Gas. | 02–15–94 | G–S | 500 | N | I | 01–01–94 | 12–31–94 |
| ST94–4034 | Midwestern Gas Transmission Co. | Associated Natural Gas, Inc. | 02–15–94 | G–S | 20,000 | N | I | 01–19–94 | Indef. |
| ST94–4035 | Panhandle Eastern Pipe Line Co. | Columbia Gas of Ohio, Inc. | 02–15–94 | G–S | 30,655 | N | F | 01–15–94 | 03–31–94 |
| ST94–4036 | Panhandle Eastern Pipe Line Co. | Dayton Power & Light Co. | 02–15–94 | G–S | 5,000 | N | F | 01–17–94 | 01–19–94 |
| ST94–4037 | Panhandle Eastern Pipe Line Co. | Coastal Gas Marketing Co. | 02–15–94 | G–S | 20,976 | N | F | 01–18–94 | 01–19–94 |
| ST94–4038 | Panhandle Eastern Pipe Line Co. | Battle Creek Gas Co. | 02–15–94 | G–S | 5,000 | N | F | 01–17–94 | 02–10–94 |
| ST94–4039 | Panhandle Eastern Pipe Line Co. | Michigan Gas Utilities. | 02–15–94 | G–S | 40,000 | N | F | 01–16–94 | 01–19–94 |
| ST94–4040 | Panhandle Eastern Pipe Line Co. | Central Illinois Light Co. | 02–15–94 | G–S | 15,000 | N | F | 01–16–94 | 01–21–94 |
| ST94–4041 | Panhandle Eastern Pipe Line Co. | Gaslantinc Corp .... | 02–15–94 | G–S | 50,000 | N | I | 01–19–94 | 12–31–98 |
| ST94–4042 | Panhandle Eastern Pipe Line Co. | Tristar Gas Marketing Co. | 02–15–94 | G–S | 30,000 | N | I | 01–19–94 | 04–30–98 |
| ST94–4043 | Panhandle Eastern Pipe Line Co. | Indiana Gas Co., Inc. | 02–15–94 | G–S | 25,000 | N | I | 01–19–94 | 04–30–98 |

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| ST94–4044 | Panhandle Eastern Pipe Line Co. | Tenaska Marketing Ventures. | 02–15–94 | G–S | 2,100 | N | F | 02–22–94 | 03–31–94 |
| ST94–4045 | Panhandle Eastern Pipe Line Co. | Enron Access Corp | 02–15–94 | G–S | 25,000 | N | F | 02–20–94 | 01–31–94 |
| ST94–4046 | Panhandle Eastern Pipe Line Co. | Battle Creek Gas Co. | 02–15–94 | G–S | 5,000 | N | F | 01–19–94 | 04–30–94 |
| ST94–4047 | East Tennessee Natural Gas Co. | Zeneca, Inc ..... | 02–15–94 | G–S | 550 | N | F | 02–03–94 | Indef. |
| ST94–4048 | East Tennessee Natural Gas Co. | Powell-Clinch Utility District. | 02–15–94 | G–S | 515 | N | F | 01–15–94 | 11–01–00 |
| ST94–4049 | East Tennessee Natural Gas Co. | Mead Paper ..... | 02–15–94 | G–S | 1,500 | N | I | 11–01–93 | Indef. |
| ST94–4050 | Texas Gas Transmission Corp. | Northwestern Mutual Life Insur. | 02–15–94 | G–S | 50,000 | N | I | 02–09–94 | Indef. |
| ST94–4051 | Texas Gas Transmission Corp. | Enron Gas Marketing, Inc. | 02–15–94 | G–S | 50,000 | N | I | 02–02–94 | Indef. |
| ST94–4052 | Texas Gas Transmission Corp. | Transco Energy Marketing Co. | 02–15–94 | G–S | 100,000 | A | I | 02–04–94 | Indef. |
| ST94–4053 | Southern Natural Gas Co. | Conoco Inc ..... | 02–15–94 | G–S | 50,000 | N | I | 01–21–94 | Indef. |
| ST94–4054 | Southern Natural Gas Co. | Burgess Pigment ... | 02–15–94 | G–S | 500 | N | F | 02–01–94 | 01–31–97 |
| ST94–4055 | Southern Natural Gas Co. | Sonat Marketing Co. | 02–15–94 | G–S | 4,897 | N | F | 02–05–94 | 02–28–94 |
| ST94–4056 | Southern Natural Gas Co. | City of Trion ..... | 02–15–94 | G–S | 336 | N | F | 02–01–94 | 10–31–95 |
| ST94–4057 | Southern Natural Gas Co. | Sonat Marketing Co. | 02–15–94 | G–S | 9,540 | N | F | 02–08–94 | 02–28–94 |
| ST94–4058 | Southern Natural Gas Co. | Sonat Marketing Co. | 02–15–94 | G–S | 1,638 | N | F | 02–14–94 | 02–28–94 |
| ST94–4059 | Southern Natural Gas Co. | City of Trion ..... | 02–15–94 | G–S | 1,039 | N | F | 02–01–94 | 12–31–05 |
| ST94–4060 | Southern Natural Gas Co. | City of Trion ..... | 02–15–94 | G–S | 1,016 | N | F | 02–01–94 | 10–31–95 |
| ST94–4061 | Southern Natural Gas Co. | Ford Motor Co ..... | 02–15–94 | G–S | 1,469 | N | F | 02–03–94 | 03–01–94 |
| ST94–4062 | Southern Natural Gas Co. | City of Cuthbert ..... | 02–15–94 | G–S | 5,000 | N | I | 01–27–94 | Indef. |
| ST94–4063 | Southern Natural Gas Co. | City of Cartersville . | 02–15–94 | G–S | 10,000 | N | I | 02–05–94 | Indef. |
| ST94–4064 | Southern Natural Gas Co. | Atlanta Gas Light Co. | 02–15–94 | G–S | 107,040 | N | F | 01–20–94 | 02–04–94 |
| ST94–4065 | Southern Natural Gas Co. | Heath Petra Resources, Inc. | 02–15–94 | G–S | 10,000 | N | F | 02–08–94 | 02–28–94 |
| ST94–4066 | Southern Natural Gas Co. | Chevron USA, Inc . | 02–15–94 | G–S | 1,000 | N | F | 02–11–94 | 02–28–94 |
| ST94–4067 | Transcontinental Gas P/L Corp. | Alabama Gas Corp.-Clanton. | 02–16–94 | G–S | 3,460 | N | F | 02–01–94 | 01–31–94 |
| ST94–4068 | Transcontinental Gas P/L Corp. | Alabama Gas Corp.-Linden. | 02–16–94 | G–S | 2,000 | N | F | 02–01–94 | 01–31–14 |
| ST94–4069 | Transcontinental Gas P/L Corp. | City of Butler ..... | 02–16–94 | G–S | 1,480 | N | F | 02–01–94 | 01–31–14 |
| ST94–4070 | Transcontinental Gas P/L Corp. | City of Liberty ..... | 02–16–94 | G–S | 395 | N | F | 01–18–94 | 01–17–14 |
| ST94–4071 | Williston Basin Inter. P/L Co. | Montana-Dakota Utilities Co. | 02–16–94 | B | 228,512 | A | F | 12–01–93 | 06–30–97 |
| ST94–4072 | Columbia Gulf Transmission Co. | Associated Natural Gas, Inc. | 02–16–94 | G–S | 20,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4073 | Columbia Gulf Transmission Co. | Associated Natural Gas, Inc. | 02–16–94 | G–S | 15,000 | N | F | 01–15–94 | 02–28–94 |
| ST94–4074 | Tennessee Gas Pipeline Co. | Clinton Gas Marketing Inc. | 02–16–94 | G–S | 5,200 | N | F | 02–01–94 | Indef. |
| ST94–4075 | Kentucky West Virginia Gas. | Cobra Petroleum Production Corp. | 02–16–94 | G–S | 500 | N | I | 12–01–93 | Indef. |
| ST94–4076 | Pacific Gas Transmission Co. | Washington Water Power Co. | 02–16–94 | G–S | 48,025 | N | I | 01–26–94 | Indef. |
| ST94–4077 | Channel Industries Gas Co. | Koch Gateway Pipeline, et al. | 02–17–94 | C | 50,000 | N | I | 12–02–93 | Indef. |
| ST94–4078 | Tennessee Gas Pipeline Co. | Northern Utilities, Inc. | 02–17–94 | G–S | 4,989 | N | F | 01–25–94 | Indef. |
| ST94–4079 | Tennessee Gas Pipeline Co. | Aquila Energy Marketing Corp. | 02–17–94 | G–S | 2,000 | N | F | 02–01–94 | Indef. |

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| ST94–4080 | Tennessee Gas Pipeline Co. | Philbro Energy Inc . | 02–17–94 | G–S | 5,000 | N | F | 02–01–94 | Indef. |
| ST94–4081 | Tennessee Gas Pipeline Co. | Bay State Gas Co . | 02–17–94 | G–S | 16,175 | N | F | 01–25–94 | Indef. |
| ST94–4082 | Questar Pipeline Co. | Kern River Gas Transmission Co. | 02–17–94 | G–S | 25,000 | N | I | 01–28–94 | Indef. |
| ST94–4083 | Questar Pipeline Co. | Tenneco Gas Marketing Co. | 02–17–94 | G–S | 5,000 | N | I | 01–28–94 | Indef. |
| ST94–4084 | Questar Pipeline Co. | Kern River Gas Transmission Co. | 02–17–94 | G–S | 300,000 | N | I | 10–07–93 | Indef. |
| ST94–4085 | Questar Pipeline Co. | Luff Exploration Co | 02–17–94 | G–S | 250 | N | I | 01–26–94 | Indef. |
| ST94–4086 | Oasis Pipe Line Co | El Paso Natural Gas Co. | 02–17–94 | C | 25,000 | N | I | 12–05–93 | Indef. |
| ST94–4087 | Oasis Pipe Line Co | Transwestern Gas Co. | 02–17–94 | C | 50,000 | N | I | 12–01–93 | Indef. |
| ST94–4088 | Arkla Energy Resources Co. | Arkansas Louisiana Gas Co. | 02–17–94 | B | 1,400 | N | I | 02–01–94 | Indef. |
| ST94–4089 | Koch Gateway Pipeline Co. | Appalachian Gas Sales. | 02–17–94 | G–S | N/A | N | I | 02–01–94 | Indef. |
| ST94–4090 | Koch Gateway Pipeline Co. | Mobile Gas Service Corp. | 02–17–94 | G–S | N/A | N | I | 02–04–94 | Indef. |
| ST94–4091 | Koch Gateway Pipeline Co. | Southern Natural Gas Co. | 02–17–94 | G–S | N/A | N | I | 02–04–94 | Indef. |
| ST94–4092 | Houston Pipe Line Co. | Black Marlin Pipe Line Co. | 02–17–94 | C | 20,000 | N | I | 12–01–93 | Indef. |
| ST94–4093 | Houston Pipe Line Co. | Texas Eastern Transmission Corp. | 02–17–94 | C | 20,000 | N | I | 12–04–93 | Indef. |
| ST94–4094 | Houston Pipe Line Co. | Florida Gas Transmission Co. | 02–17–94 | C | 50,000 | N | I | 12–20–93 | Indef. |
| ST94–4095 | Houston Pipe Line Co. | Cargill, Inc ..... | 02–17–94 | G–I | 100,000 | N | I | 12–16–93 | Indef. |
| ST94–4096 | Houston Pipe Line Co. | Koch Gateway Pipe Line Co. | 02–17–94 | C | 25,000 | N | I | 12–01–93 | Indef. |
| ST94–4097 | Williston Basin Inter. P/L Co. | Koch Hydorcarbon Co. | 02–17–94 | G–S | 70,000 | A | I | 01–18–94 | 12–31–95 |
| ST94–4098 | Natural Gas P/L Co. of America. | Anthem Energy Co., L.P. | 02–17–94 | G–S | 1,000 | N | F | 12–01–93 | 11–30–00 |
| ST94–4099 | Trailblazer Pipeline Co. | K N Gas Marketing, Inc. | 02–17–94 | G–S | 250,000 | N | I | 01–01–93 | Indef. |
| ST94–4100 | El Paso Natural Gas Co. | Vastar Gas Marketing, Inc. | 02–17–94 | G–S | 10,000 | N | I | 01–19–94 | Indef. |
| ST94–4101 | El Paso Natural Gas Co. | Mobil Natural Gas, Inc. | 02–17–94 | G–S | 51,500 | N | I | 01–19–94 | Indef. |
| ST94–4102 | Transcontinental Gas P/L Corp. | Boston Gas Co ..... | 02–17–94 | G–S | 6,121 | N | F | 01–27–94 | 06–01–08 |
| ST94–4103 | Transcontinental Gas P/L Corp. | New Jersey Natural Gas Co. | 02–17–94 | B | 223,000 | N | I | 02–07–94 | Indef. |
| ST94–4104 | Columbia Gas Transmission Corp. | Gas Transport, Inc | 02–17–94 | G–ST | N/A | N | I | 02–12–94 | Indef. |
| ST94–4105 | Columbia Gas Transmission Corp. | CMS Gas Marketing. | 02–17–94 | G–ST | N/A | N | I | 02–15–94 | Indef. |
| ST94–4106 | Gulf Energy Pipeline Co. | Natural Gas Pipeline Co. of America. | 02–18–94 | C | 20,000 | N | I | 12–01–93 | Indef. |
| ST94–4107 | Gulf Energy Pipeline Co. | Natural Gas Pipeline Co. of America. | 02–18–94 | C | 25,000 | N | I | 01–01–94 | Indef. |
| ST94–4108 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co. | 02–18–94 | C | 100,000 | A | I | 01–27–94 | Indef. |
| ST94–4109 | Columbia Gas Transmission Corp. | Enron Access Corp | 02–18–94 | G–S | 66 | N | F | 02–15–94 | 03–31–94 |
| ST94–4110 | Columbia Gas Transmission Corp. | Enron Access Corp | 02–18–94 | G–S | 658 | N | F | 02–15–94 | 03–31–94 |
| ST94–4111 | Columbia Gas Transmission Corp. | Amerada Hess Corp. | 02–18–94 | G–S | 75,000 | N | I | 02–01–94 | Indef. |

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| ST94–4112 | Columbia Gas Transmission Corp. | Gaslantic Corp ..... | 02–18–94 | G–ST | N/A | N | | 02–15–94 | Indef. |
| ST94–4113 | El Paso Natural Gas Co. | Pacific Gas & Electric Co. | 02–18–94 | G–ST | 1,174,200 | N | I | 01–23–94 | Indef. |
| ST94–4114 | Great Lakes Gas Transmission, LP. | Enron Gas Marketing, Inc. | 02–18–94 | G–S | 100,000 | N | I | 02–04–94 | Indef. |
| ST94–4115 | Great Lakes Gas Transmission, LP. | Union Gas Limited | 02–18–94 | G–S | 100,000 | N | F | 01–18–94 | 02–28–94 |
| ST94–4116 | Great Lakes Gas Transmission, LP. | AIG Trading Corp .. | 02–18–94 | G–S | 75,000 | N | F | 02–03–94 | 01–31–95 |
| ST94–4117 | Great Lakes Gas Transmission, LP. | Semco Energy Services. | 02–18–94 | G–S | 25,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4118 | Great Lakes Gas Transmission, LP. | ANR Pipeline Co ... | 02–18–94 | G | 100,000 | A | F | 01–21–94 | 03–31–94 |
| ST94–4119 | Great Lakes Gas Transmission, LP. | Coenergy Trading Co. | 02–18–94 | G–S | 50,000 | N | F | 01–20–94 | 02–28–94 |
| ST94–4120 | Channel Industries Gas Co. | Tennessee Gas Pipeline Co. | 02–18–94 | C | 100,000 | A | I | 01–27–94 | Indef. |
| ST94–4121 | Texas Eastern Transmission Corp. | NGC Transportation, Inc. | 02–22–94 | G–S | 1,126,700 | N | I | 01–29–94 | 03–31–94 |
| ST94–4122 | Texas Eastern Transmission Corp. | Enron Gas Marketing, Inc. | 02–22–94 | G–S | 880,000 | N | I | 01–21–94 | 03–31–94 |
| ST94–4123 | Texas Eastern Transmission Corp. | Texas-Ohio Gas, Inc. | 02–22–94 | G–S | 40,000 | N | I | 02–05–94 | 03–31–94 |
| ST94–4124 | Texas Eastern Transmission Corp. | ANR Pipeline Co ... | 02–22–94 | G | 100,000 | N | I | 01–28–94 | 01–27–95 |
| ST94–4125 | Texas Eastern Transmission Corp. | KCS Energy Marketing, Inc. | 02–22–94 | G–S | 450,000 | N | I | 01–20–94 | 03–31–94 |
| ST94–4126 | Texas Eastern Transmission Corp. | Consolidated Edison Co. of New York. | 02–22–94 | G–S | 4,216,000 | N | I | 01–21–94 | 05–30–94 |
| ST94–4127 | Texas Eastern Transmission Corp. | Hope Gas, Inc ..... | 02–22–94 | G–S | 1,692 | N | F | 06–01–93 | 10–31–99 |
| ST94–4128 | Texas Eastern Transmission Corp. | Stolle Corp ..... | 02–22–94 | G–S | 4,000 | N | F/I | 12–01–93 | 10–31–95 |
| ST94–4129 | Texas Eastern Transmission Corp. | Anadarko Trading Co. | 02–22–94 | G–S | 103,500 | N | F/I | 10–15–93 | 09–30–94 |
| ST94–4130 | Texas Eastern Transmission Corp. | General Motors Corp. | 02–22–94 | G–S | 10,000 | N | I | 06–01–93 | 04–15–00 |
| ST94–4131 | Texas Eastern Transmission Corp. | Fall River Gas Co . | 02–22–94 | G–S | 950 | N | I | 11–18–93 | 03–31–06 |
| ST94–4132 | Texas Eastern Transmission Corp. | Fall River Gas Co . | 02–22–94 | G–S | 129 | N | I | 11–18–93 | 04–15–00 |
| ST94–4133 | Columbia Gas Transmission Corp. | Honda of America Manufacturing, Inc. | 02–22–94 | G–ST | N/A | N | I | 02–15–94 | Indef. |
| ST94–4134 | Midwestern Gas Transmission Co. | Associated Natural Gas, Inc. | 02–22–94 | G–S | 85,000 | N | F | 02–10–94 | Indef. |
| ST94–4135 | Northern Natural Gas Co. | Woodbine Municipal Nat. Gas Systems. | 02–22–94 | G–S | 523 | N | F/I | 11–01–93 | 10–31–97 |
| ST94–4136 | Northern Natural Gas Co. | Circle Pines Utilities. | 02–22–94 | G–S | 1,025 | N | F/I | 11–25–93 | 11–24–97 |
| ST94–4137 | Northern Natural Gas Co. | Guthrie Center Municipal Utility. | 02–22–94 | G–S | 600 | N | F/I | 11–01–93 | 10–31–97 |
| ST94–4138 | Northern Natural Gas Co. | City of West Bend . | 02–22–94 | G–S | 400 | N | F/I | 11–02–93 | 11–03–97 |
| ST94–4139 | Northern Natural Gas Co. | Peninsular Gas Co | 02–22–94 | G–S | 1,000 | N | F/I | 12–28–93 | 12–29–97 |

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| ST94–4140 | Northern Natural Gas Co. | Hawarden Municipal Utility. | 02–22–94 | G–S | 1,028 | N | F/I | 01–18–94 | 01–19–98 |
| ST94–4141 | Northern Natural Gas Co. | Midwest Natural Gas, Inc. | 02–22–94 | G–S | 2,000 | N | F/I | 12–27–93 | 12–26–97 |
| ST94–4142 | Northern Natural Gas Co. | Emmetsburg Municipal Utilities. | 02–22–94 | G–S | 1,516 | N | F/I | 12–01–93 | 12–01–97 |
| ST94–4143 | Northern Natural Gas Co. | Manilla Gas Department. | 02–22–94 | G–S | 200 | N | F/I | 12–29–93 | 12–29–97 |
| ST94–4144 | Northern Natural Gas Co. | Peoples Natural Gas Co. | 02–22–94 | G–S | 5,000 | N | F/I | 01–17–94 | 01–16–98 |
| ST94–4145 | Northern Natural Gas Co. | Cascade Municipal Utilities. | 02–22–94 | G–S | 650 | N | F/I | 11–01–93 | 10–31–97 |
| ST94–4146 | Northern Natural Gas Co. | Remsen Municipal Utilities. | 02–22–94 | G–S | 784 | N | F/I | 11–01–93 | 10–31–97 |
| ST94–4147 | Northern Natural Gas Co. | Rock Rapids Municipal Utilities. | 02–22–94 | G–S | 150 | N | F/I | 12–01–93 | 12–01–97 |
| ST94–4148 | Northern Natural Gas Co. | Sanborn Municipal Gas Utility. | 02–22–94 | G–S | 356 | N | F/I | 11–01–93 | 10–31–97 |
| ST94–4149 | Natural Gas P/L Co. of America. | Enron Gas Marketing, Inc. | 02–22–94 | G–S | 20,000 | N | F | 02–02–94 | 3–31–94 |
| ST94–4150 | Natural Gas P/L Co. of America. | Enron Gas Marketing, Inc. | 02–22–94 | G–S | 15,000 | N | F | 02–02–94 | 02–28–94 |
| ST94–4151 | Canyon Creek Compression Co. | Colorado Interstate Gas Co. | 02–22–94 | G | 37,000 | N | F | 12–01–93 | 11–17–02 |
| ST94–4152 | Michigan Gas Storage Co. | Consumers Power Co. | 02–22–94 | B | 50,000 | A | I | 04–01–93 | Indef. |
| ST94–4153 | Consumers Power Co. | Michigan Gas Storage Co., et al. | 02–22–94 | G–HT | 50,000 | A | I | 04–01–93 | Indef. |
| ST94–4154 | Channel Industries Gas Co. | Florida Gas Transmission Co., et al. | 02–22–94 | C | 75,000 | N | I | 01–22–94 | Indef. |
| ST94–4155 | Channel Industries Gas Co. | Coastal Gas Marketing Co. | 02–22–94 | G–I | 50,000 | N | I | 01–22–94 | Indef. |
| ST94–4156 | Channel Industries Gas Co. | Florida Gas Transmission Co., et al. | 02–22–94 | C | 75,000 | A | I | 01–22–94 | Indef. |
| ST94–4157 | Valero Transmission, L.P. | Arkla Energy Resources. | 02–22–94 | C | 16,000 | N | I | 02–05–94 | Indef. |
| ST94–4158 | Transtexas Pipeline | Transconeintntal Gas Pipeline Co. | 02–22–94 | C | 20,000 | N | I | 02–01–94 | Indef. |
| ST94–4159 | CNG Transmission Corp. | Arcadia Energy Corp. | 02–22–94 | G–S | 1,500 | N | I | 11–01–93 | Indef. |
| ST94–4160 | CNG Transmission Corp. | Penn Fuel Gas, Inc | 02–22–94 | G–S | 4,462 | N | F | 11–01–93 | 03–31–01 |
| ST94–4161 | CNG Transmission Corp. | Public Service Co. of North Carolina. | 02–22–94 | G–S | 11,669 | N | F | 11–07–93 | 03–31–13 |
| ST94–4162 | CNG Transmission Corp. | National Fuel Gas Distribution. | 02–22–94 | G–S | 70,423 | N | F | 11–01–93 | 03–31–03 |
| ST94–4163 | CNG Transmission Corp. | National Fuel Gas Distribution. | 02–22–94 | G–S | 79,794 | N | F | 11–17–93 | 03–31–01 |
| ST94–4164 | CNG Transmission Corp. | Niagara Mohawk Power Co. | 02–22–94 | G–S | 50,000 | N | F | 11–01–93 | 11–30–94 |
| ST94–4165 | CNG Transmission Corp. | Niagara Mohawk Power Corp. | 02–22–94 | G–S | 434,078 | N | F | 11–01–93 | 03–31–02 |
| ST94–4166 | CNG Transmission Corp. | River Gas Co ..... | 02–22–94 | G–S | 6,963 | A | F | 11–01–93 | 03–31–01 |
| ST94–4167 | CNG Transmission Corp. | Connecticut Natural Gas Corp. | 02–22–94 | G–S | 6,340 | N | F | 11–01–93 | 03–31–03 |
| ST94–4168 | CNG Transmission Corp. | Hope Gas Inc ..... | 02–22–94 | G–S | 77,800 | A | F | 11–01–93 | 03–31–01 |
| ST94–4169 | CNG Transmission Corp. | Rochester Gas & Electric Co. | 02–22–94 | G–S | 165,506 | N | F | 11–01–93 | 03–31–01 |
| ST94–4170 | CNG Transmission Corp. | Colonial Gas Co .... | 02–22–94 | G–S | 1,843 | N | F | 11–01–93 | 11–30–93 |
| ST94–4171 | CNG Transmission Corp. | Boston Gas Co ..... | 02–22–94 | G–S | 1,466 | N | F | 11–01–93 | 03–31–03 |
| ST94–4172 | CNG Transmission Corp. | City of Richmond ... | 02–22–94 | G–S | 595 | N | F | 11–01–93 | 03–31–17 |
| ST94–4173 | CNG Transmission Corp. | Public Service Electric & Gas Co. | 02–22–94 | G–S | 43,300 | N | F | 11–01–93 | 09–26–00 |
| ST94–4174 | CNG Transmission Corp. | Long Island Lighting Co. | 02–22–94 | G–S | 17,432 | N | F | 11–01–93 | 09–26–00 |

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| ST94–4175 | CNG Transmission Corp. | Hanley & Bird, Inc . | 02–22–94 | G–S | 10,000 | N | F | 11–01–93 | 03–31–04 |
| ST94–4176 | CNG Transmission Corp. | New York State Electric & Gas. | 02–22–94 | G–S | 91,461 | N | F | 11–01–93 | 03–31–01 |
| ST94–4177 | CNG Transmission Corp. | Peoples Natural Gas Co. | 02–22–94 | G–S | 137,774 | A | F | 11–01–93 | 03–31–02 |
| ST94–4178 | CNG Transmission Corp. | Virginia Natural Gas. | 02–22–94 | G–S | 19,852 | A | F | 11–01–93 | 03–31–12 |
| ST94–4179 | CNG Transmission Corp. | Baltimore Gas & Electric Co. | 02–22–94 | G–S | 60,905 | N | F | 11–01–93 | 03–31–08 |
| ST94–4180 | CNG Transmission Corp. | Washington Gas Light. | 02–22–94 | G–S | 60,224 | N | F | 11–01–93 | 03–31–08 |
| ST94–4181 | CNG Transmission Corp. | Rochester Gas & Electric Corp. | 02–22–94 | G–S | 224,494 | N | F | 12–12–93 | 03–31–01 |
| ST94–4182 | CNG Transmission Corp. | Colonial Gas Co .... | 02–22–94 | G–S | 1,951 | N | F | 12–01–93 | 03–31–03 |
| ST94–4183 | CNG Transmission Corp. | Southern Connecticut Gas Co. | 02–22–94 | G–S | 2,902 | N | F | 12–01–93 | 03–31–03 |
| ST94–4184 | CNG Transmission Corp. | Alcan Rolled Products Co. | 02–22–94 | G–S | 7,000 | N | F | 12–01–93 | 03–31–03 |
| ST94–4185 | CNG Transmission Corp. | Filmore Gas ..... | 02–22–94 | G–S | 865 | N | F | 12–01–93 | 03–31–01 |
| ST94–4186 | CNG Transmission Corp. | Bay State Gas Co . | 02–22–94 | G–S | 4,235 | N | F | 12–01–93 | 03–31–03 |
| ST94–4187 | CNG Transmission Corp. | South Jersey Gas Co. | 02–22–94 | G–S | 17,432 | N | F | 12–28–93 | 04–01–00 |
| ST94–4188 | CNG Transmission Corp. | Onondaga Cogeneration. | 02–22–94 | G–S | 17,488 | N | F | 12–22–93 | 09–10–13 |
| ST94–4189 | CNG Transmission Corp. | Long Island Lighting Co. | 02–22–94 | G–S | 27,698 | N | F | 11–01–93 | 03–31–08 |
| ST94–4190 | CNG Transmission Corp. | Elizabethtown Gas Co. | 02–22–94 | G–S | 60,973 | N | F | 11–01–93 | 04–01–00 |
| ST94–4191 | CNG Transmission Corp. | Atlanta Gas Light Co. | 02–22–94 | G–S | 20,918 | N | F | 11–21–93 | 07–25–00 |
| ST94–4192 | CNG Transmission Corp. | Consolidated Edison of New York. | 02–22–94 | G–S | 7,575 | N | F | 11–01–93 | 03–31–03 |
| ST94–4193 | CNG Transmission Corp. | Corning Natural Gas Co. | 02–22–94 | G–S | 15,496 | N | F | 11–01–93 | 03–31–01 |
| ST94–4194 | CNG Transmission Corp. | Public Service Electric & Gas. | 02–22–94 | G–S | 51,742 | N | F | 11–01–93 | 03–31–08 |
| ST94–4195 | CNG Transmission Corp. | New Jersey Natural Gas Co. | 02–22–94 | G–S | 65,065 | N | F | 11–01–93 | 03–31–03 |
| ST94–4196 | CNG Transmission Corp. | Public Service Co. of North Carolina. | 02–22–94 | G–S | 18,331 | N | F | 11–01–93 | 03–31–13 |
| ST94–4197 | CNG Transmission Corp. | Northern Utilities .... | 02–22–94 | G–S | 965 | N | F | 12–01–93 | 03–31–03 |
| ST94–4198 | CNG Transmission Corp. | Appalachian Gas Sales. | 02–22–94 | G–S | 30,000 | N | I | 12–01–93 | Indef. |
| ST94–4199 | CNG Transmission Corp. | Applied Mechanics Corp. | 02–22–94 | G–S | 400 | N | I | 12–02–93 | 02–28–94 |
| ST94–4200 | CNG Transmission Corp. | Catex Energy, Inc . | 02–22–94 | G–S | 50,000 | N | I | 12–01–93 | 02–28–94 |
| ST94–4201 | CNG Transmission Corp. | O & R Energy, Inc . | 02–22–94 | G–S | 100,000 | N | I | 12–22–93 | 02–28–94 |
| ST94–4202 | CNG Transmission Corp. | Phoenix Diversified Ventures. | 02–22–94 | G–S | 50,000 | N | I | 12–22–93 | 02–28–94 |
| ST94–4203 | CNG Transmission Corp. | CNG Transmission Corp. | 02–22–94 | G–S | 54,726 | N | F | 01–01–94 | 10–31–10 |
| ST94–4204 | CNG Transmission Corp. | Fuel Services Group. | 02–22–94 | G–S | 4,380 | N | I | 01–01–94 | 03–31–94 |
| ST94–4205 | CNG Transmission Corp. | CNG Transmission Corp. | 02–22–94 | G–S | 500,000 | A | I | 01–01–94 | 02–28–94 |
| ST94–4206 | CNG Transmission Corp. | CNG Gas Services | 02–22–94 | G–S | 300,000 | A | I | 01–13–94 | 02–28–94 |
| ST94–4207 | CNG Transmission Corp. | Appalachian Gas Sales. | 02–22–94 | G–S | 30,000 | N | I | 01–01–94 | 02–28–94 |
| ST94–4208 | CNG Transmission Corp. | Empire Natural Gas Corp. | 02–22–94 | G–S | 10,000 | N | I | 01–01–94 | 02–28–94 |
| ST94–4209 | CNG Transmission Corp. | Colonial Gas Co .... | 02–22–94 | G–S | 3,578 | N | F | 01–13–94 | 03–31–03 |
| ST94–4210 | CNG Transmission Corp. | Virginia Natural Gas Co. | 02–22–94 | G–S | 6,444 | N | F | 01–19–94 | 03–31–10 |

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| ST94–4211 | CNG Transmission Corp. | Corning Natural Gas Co. | 02–22–94 | G–S | 14,504 | N | F | 01–06–94 | 03–31–01 |
| ST94–4212 | CNG Transmission Corp. | Elizabethtown Gas Co. | 02–22–94 | G–S | 15,148 | N | F | 01–13–94 | 03–31–10 |
| ST94–4213 | CNG Transmission Corp. | Riley Natural Gas Co. | 02–22–94 | G–S | 100,000 | N | I | 01–01–94 | 02–28–94 |
| ST94–4214 | CNG Transmission Corp. | Hope Gas Inc ..... | 02–22–94 | G–S | 100,000 | A | I | 01–01–94 | 02–28–94 |
| ST94–4215 | CNG Transmission Corp. | Brooklyn Union Gas Co. | 02–22–94 | G–S | 13,945 | N | F | 11–25–93 | 09–26–00 |
| ST94–4216 | CNG Transmission Corp. | Access Energy Corp. | 02–22–94 | G–S | 1,500 | N | I | 11–07–93 | Indef. |
| ST94–4217 | CNG Transmission Corp. | Access Energy Corp. | 02–22–94 | G–S | 100,000 | N | I | 11–01–93 | Indef. |
| ST94–4218 | CNG Transmission Corp. | Washington Gas Light. | 02–22–94 | G–S | 11,669 | N | F | 11–01–93 | 03–31–08 |
| ST94–4219 | Sabine Pipe Line Co. | Cargill, Inc ..... | 02–22–94 | G–S | 200,000 | N | I | 10–09–93 | Indef. |
| ST94–4220 | CNG Transmission Corp. | CNG Transmission Corp. | 02–22–94 | G–S | 500,000 | A | F | 11–01–93 | 12–31–93 |
| ST94–4221 | CNG Transmission Corp. | Fulton Cogeneration. | 02–22–94 | G–S | 6,350 | N | F | 11–01–93 | 10–31–05 |
| ST94–4222 | CNG Transmission Corp. | Niagara Mohawk Power Corp. | 02–22–94 | G–S | 305,922 | N | F | 11–01–93 | 03–31–02 |
| ST94–4223 | CNG Transmission Corp. | East Ohio Gas Co . | 02–22–94 | G–S | 433,885 | A | F | 11–01–93 | 03–31–01 |
| ST94–4224 | CNG Transmission Corp. | Brooklyn Union Gas Co. | 02–22–94 | G–S | 50,745 | N | F | 11–01–93 | 03–31–13 |
| ST94–4225 | Northern Natural Gas Co. | Peoples Natural Gas Co. | 02–23–94 | G–S | 13,553 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4226 | Northern Natural Gas Co. | Northern Illinois Gas Co. | 02–23–94 | G–S | 8,713 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4227 | Northern Natural Gas Co. | Northwestern Public Service Co. | 02–23–94 | G–S | 1,895 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4228 | Northern Natural Gas Co. | Northern States Power Co., et al. | 02–23–94 | G–S | 12,681 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4230 | Northern Natural Gas Co. | Midwest Gas ..... | 02–23–94 | G–S | 16,524 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4231 | Northern Natural Gas Co. | Northern Illinois Gas Co. | 02–23–94 | G–S | 8,713 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4232 | Northern Natural Gas Co. | Cibola Corp ..... | 02–23–94 | G–S | 300,000 | N | F/I | 04–07–93 | Indef. |
| ST94–4233 | Northern Natural Gas Co. | Kansas Gas Supply Corp. | 02–23–94 | G–S | 15,000 | N | F/I | 11–23–93 | Indef. |
| ST94–4234 | Northern Natural Gas Co. | Wisconsin Gas Co | 02–23–94 | G–S | 4,428 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4235 | Northern Natural Gas Co. | Metropolitan Utilities District. | 02–23–94 | G–S | 8,734 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4236 | Northern Natural Gas Co. | Michigan Gas Co .. | 02–23–94 | G–S | 1,572 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4237 | Northern Natural Gas Co. | Iowa Electric Light & Power Co. | 02–23–94 | G–S | 3,857 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4238 | Northern Natural Gas Co. | Interstate Power Co. | 02–23–94 | G–S | 3,435 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4239 | Northern Natural Gas Co. | Great Plains Natural Gas Co. | 02–23–94 | G–S | 218 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4240 | Northern Natural Gas Co. | Iowa-Illinois Gas & Electric Co. | 02–23–94 | G–S | 1,275 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4241 | Northern Natural Gas Co. | Minnegasco ..... | 02–23–94 | G–S | 19,126 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4242 | Northern Natural Gas Co. | American Central Gas Co., Inc. | 02–23–94 | G–S | 100,000 | N | F/I | 01–14–94 | Indef. |
| ST94–4243 | Northern Natural Gas Co. | City of Duluth ..... | 02–23–94 | G–S | 1,437 | N | F/I | 11–01–93 | 11–02–98 |
| ST94–4244 | Northern Natural Gas Co. | UMC Petroleum Corp. | 02–23–94 | G–S | 70,000 | N | F/I | 11–01–93 | Indef. |
| ST94–4245 | Northern Natural Gas Co. | Arco Natural Gas Marketing, Inc. | 02–23–94 | G–S | 100,000 | N | F/I | 11–01–93 | Indef. |
| ST94–4246 | Northern Natural Gas Co. | Wisconsin Power & Light Co. | 02–23–94 | G–S | 1,474 | N | F/I | 11–01–94 | 11–02–98 |
| ST94–4247 | Northern Natural Gas Co. | ONG Western, Inc . | 02–23–94 | B | 200,000 | N | F/I | 06–01–93 | Indef. |

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| ST94–4248 | Northern Natural Gas Co. | Chevron U.S.A., Inc. | 02–23–94 | G–S | 100,000 | N | F/I | 11–01–93 | Indef. |
| ST94–4249 | Northern Natural Gas Co. | Pennzoil Gas Marketing Co. | 02–23–94 | G–S | 20,000 | N | F/I | 07–01–93 | Indef. |
| ST94–4250 | Northern Natural Gas Co. | Mid-Continent Energy, Inc. | 02–23–94 | G–S | 1,500 | N | F/I | 09–01–93 | Indef. |
| ST94–4251 | Northern Natural Gas Co. | AIG Trading Corp .. | 02–23–94 | G–S | 100,000 | N | F/I | 12–11–93 | 04–11–94 |
| ST94–4252 | Northern Natural Gas Co. | Transok Gas Co .... | 02–23–94 | G–S | 50,000 | N | F/I | 03–27–93 | Indef. |
| ST94–4253 | Northern Natural Gas Co. | Pan-Alberta Gas (U.S.) Inc. | 02–23–94 | G–S | 25,000 | N | F/I | 12–03–93 | 03–02–94 |
| ST94–4254 | Northern Natural Gas Co. | Landmark Gas Corp. | 02–23–94 | G–S | 10,000 | N | F/I | 06–03–93 | Indef. |
| ST94–4255 | Northern Natural Gas Co. | Meridian Oil Trading, Inc. | 02–23–94 | G–S | 50,000 | N | F/I | 02–04–93 | Indef. |
| ST94–4256 | Northern Natural Gas Co. | Paradigm Oil, Inc .. | 02–23–94 | G–S | 150 | N | F/I | 12–01–93 | Indef. |
| ST94–4257 | Florida Gas Transmission Co. | Marathon Oil Co .... | 02–23–94 | G–S | 80,000 | N | I | 10–08–93 | Indef. |
| ST94–4258 | Texas Eastern Transmission Corp. | New Jersey Natural Gas Co. | 02–23–94 | G–S | 3,411 | N | F | 01–01–93 | 10–31–99 |
| ST94–4259 | Texas Eastern Transmission Corp. | Public Service Electric & Gas Co. | 02–23–94 | G–S | 1,706 | N | F | 01–01–93 | 10–31–99 |
| ST94–4260 | El Paso Natural Gas Co. | Conoco Inc ..... | 02–23–94 | G–S | 2,500 | N | I | 02–26–94 | Indef. |
| ST94–4261 | Natural Gas P/L Co. of America. | Reynolds Pipeline Systems, Inc. | 02–23–94 | G–S | 2,000 | N | F | 02–01–94 | 03–31–94 |
| ST94–4262 | Natural Gas P/L Co. of America. | National Gas Resources L.P. | 02–23–94 | G–S | 22,073 | N | F | 02–01–94 | 02–28–94 |
| ST94–4263 | Natural Gas P/L Co. of America. | Texas-Ohio Gas, Inc. | 02–23–94 | G–S | 1,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4264 | Natural Gas P/L Co. of America. | North Canadian Marketing. | 02–23–94 | G–S | 10,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4265 | Natural Gas P/L Co. of America. | NGC Transportation, Inc. | 02–23–94 | G–S | 40,000 | N | F | 02–10–94 | 02–28–94 |
| ST94–4266 | Southern Natural Gas Co. | Scana Hydrocarbons Inc. | 02–23–94 | G–S | 5,000 | N | F | 01–21–94 | 01–22–94 |
| ST94–4267 | Southern Natural Gas Co. | Scana Hydrocarbons Inc. | 02–23–94 | G–S | 10,524 | N | F | 01–20–94 | 01–21–94 |
| ST94–4268 | Rocky Mountain Natural Gas Co. | Northwest Pipeline Corp. | 02–23–94 | G–HT | 1,500 | N | I | 01–22–94 | Indef. |
| ST94–4269 | Dow Pipeline Co ... | UMC Petroleum Corp. | 02–23–94 | G–I | 10,000 | N | I | 12–01–93 | 12–01–95 |
| ST94–4270 | Western Resources, Inc. | Associated Natural Gas, Inc. | 02–23–94 | G–HT | 4,000 | N | I | 03–01–93 | Indef. |
| ST94–4271 | Western Resources, Inc. | Tiger Natural Gas, Inc. | 02–23–94 | G–HT | 5,000 | N | I | 07–01–93 | Indef. |
| ST94–4272 | Enogex Inc ..... | ANR Pipeline Co ... | 02–23–94 | C | 10,000 | N | I | 02–01–94 | Indef. |
| ST94–4273 | Enogex Inc ..... | Panhandle Eastern Pipe Line Co. | 02–23–94 | C | 164 | N | I | 02–01–94 | Indef. |
| ST94–4274 | Enogex Inc ..... | ANR Pipeline Co ... | 02–23–94 | C | 20,000 | N | I | 02–01–94 | Indef. |
| ST94–4275 | Tennessee Gas Pipeline Co. | Equitable Resources Marketing Co. | 02–23–94 | G–S | 15,000 | N | F | 02–01–94 | Indef. |
| ST94–4276 | Tennessee Gas Pipeline Co. | Transco Gas Marketing Co. | 02–23–94 | G–S | 17,500 | N | F | 02–01–94 | Indef. |
| ST94–4277 | Tennessee Gas Pipeline Co. | Tenneco Gas Marketing Co. | 02–23–94 | G–S | 2,000 | N | F | 02–01–94 | Indef. |
| ST94–4278 | Northern Natural Gas Co. | Wisconsin Power & Light Co. | 02–23–94 | G–S | 40,000 | N | I | 08–05–93 | Indef. |
| ST94–4279 | Northern Natural Gas Co. | Aquila Energy Marketing Corp. | 02–23–94 | G–S | 100,000 | N | I | 01–13–93 | Indef. |
| ST94–4280 | Northern Natural Gas Co. | Kimball Energy Corp. | 02–23–94 | G–S | 13,000 | N | I | 01–22–94 | Indef. |
| ST94–4281 | Northern Natural Gas Co. | ONG Transmission Co. | 02–23–94 | B | 50,000 | N | I | 07–01–93 | Indef. |
| ST94–4282 | Northern Natural Gas Co. | ONG Transmission Co. | 02–23–94 | B | 100,000 | N | I | 08–20–93 | Indef. |

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| ST94–4283 | Northern Natural Gas Co. | Alpar Resources, Inc. | 02–24–94 | G–S | 12,000 | N | I | 01–01–93 | Indef. |
| ST94–4284 | Colorado Interstate Gas Co. | Premier Enterprises, Inc. | 02–24–94 | G–S | 1,950 | N | I | 02–17–94 | Indef. |
| ST94–4285 | Florida Gas Transmission Co. | Prior Intrastate Corp. | 02–24–94 | G–S | 10,000 | N | I | 01–29–94 | Indef. |
| ST94–4286 | Columbia Gulf Transmission Co. | Union Pacific Fuels, Inc. | 02–24–94 | G–S | 80,000 | N | I | 02–15–94 | Indef. |
| ST94–4287 | Columbia Gulf Transmission Co. | Northwestern Mutual Life Insurance. | 02–24–94 | G–S | 30,000 | N | I | 02–01–94 | Indef. |
| ST94–4288 | Columbia Gulf Transmission Co. | Wickford Energy Marketing L.C. | 02–24–94 | G–S | 20,000 | N | I | 02–03–94 | Indef. |
| ST94–4289 | Columbia Gulf Transmission Co. | H&N Gas ..... | 02–24–94 | G–S | 100,000 | N | I | 02–29–94 | Indef. |
| ST94–4290 | Natural Gas P/L Co. of America. | General Mills, Inc .. | 02–24–94 | G–S | 1,000 | N | F | 02–01–94 | 02–01–00 |
| ST94–4291 | Natural Gas P/L Co. of America. | United States Gypsum Co. | 02–24–94 | G–S | 500 | N | F | 02–01–94 | 01–31–95 |
| ST94–4292 | Natural Gas P/L Co. of America. | LTV Steel Co., Inc . | 02–24–94 | G–S | 17,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4293 | Natural Gas P/L Co. of America. | Texaco Gas Marketing, Inc. | 02–24–94 | G–S | 10,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4294 | Natural Gas P/L Co. of America. | Enron Gas Marketing, Inc. | 02–24–94 | G–S | 10,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4295 | Natural Gas P/L Co. of America. | Vesta Energy Co ... | 02–24–94 | G–S | 1,200 | N | F | 02–09–94 | 03–11–94 |
| ST94–4296 | Natural Gas P/L Co. of America. | Valero Gas Marketing, L.P. | 02–24–94 | G–S | 30,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4297 | Natural Gas P/L Co. of America. | Northern Illinois Gas Co. | 02–24–94 | G–S | 116,000 | N | F | 02–01–94 | 02–03–94 |
| ST94–4298 | Natural Gas P/L Co. of America. | Western Gas Marketing, Inc. | 02–24–94 | G–S | 1,000 | N | F | 02–01–94 | 11–30–00 |
| ST94–4299 | South Georgia Natural Gas Co. | Prior Intrastate Corp. | 02–24–94 | G–S | 30,000 | N | I | 04–01–93 | Indef. |
| ST94–4300 | Sabine Pipe Line Co. | Superior Natural Gas Corp. | 02–24–94 | G–S | 50,000 | N | I | 01–20–94 | Indef. |
| ST94–4301 | Sabine Pipe Line Co. | Mitchell Marketing Co. | 02–24–94 | G–S | 100,000 | N | I | 02–03–94 | Indef. |
| ST94–4302 | Sabine Pipe Line Co. | Shell Gas Trading Co. | 02–24–94 | G–S | 50,000 | N | I | 02–01–94 | Indef. |
| ST94–4303 | Sabine Pipe Line Co. | Exxon Corp ..... | 02–24–94 | G–S | 75,000 | N | I | 02–01–94 | Indef. |
| ST94–4304 | Sabine Pipe Line Co. | Panhandle Trading Co. | 02–24–94 | G–S | 75,000 | N | I | 02–04–94 | Indef. |
| ST94–4305 | Sabine Pipe Line Co. | Coastal Gas Marketing Co. | 02–24–94 | G–S | 100,000 | N | I | 01–19–94 | Indef. |
| ST94–4306 | Sabine Pipe Line Co. | Enmark Gas Corp . | 02–24–94 | G–S | 60,000 | N | I | 02–05–94 | Indef. |
| ST94–4307 | Sabine Pipe Line Co. | MG Natural Gas Corp. | 02–24–94 | G–S | 75,000 | N | I | 02–02–94 | Indef. |
| ST94–4308 | Sabine Pipe Line Co. | Southeastern Michigan Gas Co. | 02–24–94 | G–S | 10,000 | N | I | 01–20–94 | 01–31–94 |
| ST94–4309 | Panhandle Eastern Pipe Line Co. | Central Soya Co., Inc. | 02–24–94 | G–S | 2,000 | N | F | 01–25–94 | 03–31–94 |
| ST94–4310 | Panhandle Eastern Pipe Line Co. | Tenneco Gas Marketing Co. | 02–24–94 | G–S | 7,500 | N | F | 01–26–94 | 02–28–94 |
| ST94–4311 | Panhandle Eastern Pipe Line Co. | CMS Gas Marketing Co. | 02–24–94 | G–S | 15,000 | N | F | 01–26–94 | 02–28–94 |
| ST94–4312 | Great Lakes Gas Trans. L.P. | ANR Pipeline Co ... | 02–24–94 | G | 225,000 | N | I | 11–01–93 | Indef. |
| ST94–4313 | Great Lakes Gas Trans. L.P. | AIG Trading Corp .. | 02–24–94 | G–S | 500,000 | N | I | 02–01–94 | Indef. |
| ST94–4314 | Great Lakes Gas Trans. L.P. | ANR Pipeline Co ... | 02–24–94 | G | 175,000 | N | F | 02–01–94 | Indef. |
| ST94–4315 | Northern Natural Gas Co. | US Gas Transportation, Inc. | 02–24–94 | G–S | 5,000 | N | F | 02–01–94 | Indef. |
| ST94–4316 | Tennessee Gas Pipeline Co. | Baltimore Gas & Electric Co. | 02–25–94 | G–S | 11,814 | N | F | 10–01–93 | Indef. |
| ST94–4317 | Tennessee Gas Pipeline Co. | Providence Gas Co | 02–25–94 | G–S | 1,114 | N | F | 10–01–93 | Indef. |

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| ST94-4318 | Tennessee Gas Pipeline Co. | Commonwealth Gas Co. | 02-25-94 | G-S | 4,039 | N | F | 10-01-93 | Indef. |
| ST94-4319 | Tennessee Gas Pipeline Co. | Boston Gas Co ..... | 02-25-94 | G-S | 3,580 | N | F | 10-01-94 | Indef. |
| ST94-4320 | Tennessee Gas Pipeline Co. | National Fuel Resources, Inc. | 02-25-94 | G-S | 25,000 | N | I | 02-04-94 | Indef. |
| ST94-4321 | Tennessee Gas Pipeline Co. | Appalachian Gas Sales. | 02-25-94 | G-S | 27,000 | N | F | 02-01-94 | Indef. |
| ST94-4322 | Tennessee Gas Pipeline Co. | Atlanta Gas Light Co. | 02-25-94 | G-S | 2,000 | N | F | 02-01-94 | Indef. |
| ST94-4323 | Tennessee Gas Pipeline Co. | Phibro Energy, Inc | 02-25-94 | G-S | 7,600 | N | F | 02-01-94 | Indef. |
| ST94-4324 | Tennessee Gas Pipeline Co. | H&N Gas, Ltd ..... | 02-25-94 | G-S | 100,000 | N | I | 02-11-94 | Indef. |
| ST94-4325 | Columbia Gas Transmission Corp. | Delmarva Power & Light Co. | 02-25-94 | G-S | 10,110 | N | I | 02-01-94 | Indef. |
| ST94-4326 | Columbia Gas Transmission Corp. | Washington Gas Light Co. | 02-25-94 | G-S | N/A | N | I | 02-15-94 | Indef. |
| ST94-4327 | Koch Gateway Pipeline Co. | Excel Gas Marketing, Inc. | 02-25-94 | B | 10,000 | N | I | 01-28-94 | Indef. |
| ST94-4328 | Florida Gas Transmission Co. | Prior Intrastate Corp. | 02-25-94 | G-S | 10,000 | N | I | 01-30-94 | Indef. |
| ST94-4329 | Transwestern Pipeline Co. | Richardson Products Co. | 02-25-94 | G-S | 53,400 | N | F | 02-01-94 | 02-28-94 |
| ST94-4330 | Transwestern Pipeline Co. | GPM Gas Corp ..... | 02-25-94 | G-S | 15,000 | N | F | 11-01-93 | Indef. |
| ST94-4331 | Transwestern Pipeline Co. | Aquila Energy Marketing Corp. | 02-25-94 | G-S | 10,000 | N | F | 08-11-93 | 08-31-93 |
| ST94-4332 | Transwestern Pipeline Co. | Richardson Products Co. | 02-25-94 | G-S | 10,000 | N | F | 07-01-93 | 07-31-93 |
| ST94-4333 | Transwestern Pipeline Co. | New Mexico Natural Gas, Inc. | 02-25-94 | G-S | 2,000 | N | I | 06-19-93 | Indef |
| ST94-4334 | Transwestern Pipeline Co. | Chevron USA, Inc . | 02-25-94 | G-S | 5,000 | N | I | 07-01-94 | Indef |
| ST94-4335 | Transwestern Pipeline Co. | El Paso Gas Market Co. | 02-25-94 | G-S | 400,000 | N | I | 01-20-94 | Indef |
| ST94-4336 | Transwestern Pipeline Co. | Southern California Edison Co. | 02-25-94 | G-S | 100,000 | N | I | 07-14-93 | Indef |
| ST94-4337 | Transwestern Pipeline Co. | Santa Fe Minerals, Inc. | 02-25-94 | G-S | 49,400 | N | I | 04-01-93 | Indef |
| ST94-4338 | Transwestern Pipeline Co. | Valero Gas Marketing, L.P. | 02-25-94 | G-S | 26,000 | N | F | 02-01-94 | 02-28-94 |
| ST94-4339 | Transwestern Pipeline Co. | Bridge Gas USA .... | 02-25-94 | G-S | 5,000 | N | F | 02-03-94 | 02-08-94 |
| ST94-4340 | Transwestern Pipeline Co. | Valero Gas Market, L.P. | 02-25-94 | G-S | 54,000 | N | F | 02-01-94 | 02-28-94 |
| ST94-4341 | Transwestern Pipeline Co. | Hadson Gas Systems, Inc. | 02-25-94 | G-S | 19,836 | N | F | 02-01-94 | 02-28-94 |
| ST94-4342 | Transwestern Pipeline Co. | Anthem Energy Co., L.P. | 02-25-94 | G-S | 10,000 | N | F | 02-01-94 | 02-28-94 |
| ST94-4343 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02-25-94 | G-S | 685 | N | F | 02-01-94 | 02-28-94 |
| ST94-4344 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02-25-94 | G-S | 1,250 | N | F | 02-01-94 | 02-28-94 |
| ST94-4345 | Transwestern Pipeline Co. | Tenneco Gas Marketing. | 02-25-94 | G-S | 8,000 | N | F | 02-01-94 | 02-28-94 |
| ST94-4346 | Transwestern Pipeline Co. | Mock Resources, Inc. | 02-25-94 | G-S | 685 | N | F | 02-01-94 | 02-28-94 |
| ST94-4347 | Transwestern Pipeline Co. | US Gas Transportation, Inc. | 02-25-94 | G-S | 1,250 | N | F | 02-01-94 | 02-28-94 |
| ST94-4348 | Transwestern Pipeline Co. | Equitable Resources Marketing Co. | 02-25-94 | G-S | 685 | N | F | 02-01-94 | 02-28-94 |
| ST94-4349 | Transwestern Pipeline Co. | Bridge Gas USA .... | 02-25-94 | G-S | 4,400 | N | F | 02-01-94 | 02-28-94 |
| ST94-4350 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02-25-94 | G-S | 15,000 | N | F | 02-01-94 | 02-28-94 |
| ST94-4351 | Transwestern Pipeline Co. | Tristar Gas Marketing Co. | 02-25-94 | G-S | 1,250 | N | F | 02-01-94 | 02-28-94 |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94–4352 | Transwestern Pipeline Co. | US Gas Transportation, Inc. | 02–25–94 | G–S | 685 | N | F | 02–01–94 | 02–28–94 |
| ST94–4353 | Transwestern Pipeline Co. | Enogex Services Corp. | 02–25–94 | G–S | 2,631 | N | F | 02–01–94 | 02–28–94 |
| ST94–4354 | Transwestern Pipeline Co. | Vintage Gas, Inc ... | 02–25–94 | G–S | 1,250 | N | F | 02–01–94 | 02–28–94 |
| ST94–4355 | Transwestern Pipeline Co. | Enron Gas Marketing, Inc. | 02–25–94 | G–S | 10,000 | N | F | 02–01–94 | 02–28–94 |
| ST94–4356 | Transwestern Pipeline Co. | NGC Transportation, Inc. | 02–25–94 | G–S | 13,300 | N | F | 02–01–94 | 02–28–94 |
| ST94–4357 | Northern Natural Gas Co. | Tenaska Marketing Ventures. | 02–28–94 | G–S | 25,000 | N | F/I | 02–01–94 | Indef |
| ST94–4358 | Trunkline Gas co ... | National Gas Resources, L.P. | 02–28–94 | G–S | 828,000 | N | I | 02–04–94 | Indef |
| ST94–4359 | Trunkline Gas Co .. | Interstate Gas Supply, Inc. | 02–28–94 | G–S | 10,000 | N | I | 02–18–94 | Indef |
| ST94–4360 | Trunkline Gas Co .. | Midcon Gas Services Corp. | 02–28–94 | G–S | 10,000 | N | I | 02–01–94 | Indef |
| ST94–4361 | Trunkline Gas Co .. | Oryx Gas Marketing L.P. | 02–28–94 | G–S | 20,000 | N | I | 02–01–94 | Indef |
| ST94–4362 | Trunkline Gas Co .. | Ni-Tex, Inc ..... | 02–28–94 | G–S | 150,000 | N | I | 02–01–94 | Indef |
| ST94–4363 | Trunkline Gas Co .. | Norcen Explorer, Inc. | 02–28–94 | G–S | 20,000 | N | I | 02–01–94 | Indef |
| ST94–4364 | Tennessee Gas Pipeline Co. | Boston Gas Co ..... | 02–28–94 | G–S | 3,580 | N | F | 10–31–94 | Indef |
| ST94–4365 | Tennessee Gas Pipeline Co. | Occidential Chemical Corp. | 02–28–94 | G–S | 120 | N | F | 11–01–93 | Indef |
| ST94–4366 | Tennessee Gas Pipeline Co. | Zeneca, Inc ..... | 02–28–94 | G–S | 356 | N | F | 11–01–93 | Indef |
| ST94–4367 | Tennessee Gas Pipeline Co. | Oak Ridge Utility District. | 02–28–94 | G–S | 7,283 | N | F | 11–01–93 | Indef |
| ST94–4368 | Midwestern Gas Transmission Co. | Texas Gas Marketing, Inc. | 02–28–94 | G–S | 200,000 | N | I | 02–05–94 | Indef |
| ST94–4369 | Northwest Pipeline Corp. | Washington Energy Marketing, Inc. | 02–28–94 | G–S | 100,000 | N | F | 11–24–94 | Indef |
| ST94–4370 | Colorado Interstate Gas Co. | K N Gas Marketing, Inc. | 02–28–94 | G–S | 458 | N | I | 01–01–94 | Indef |
| ST94–4371 | Colorado Interstate Gas Co. | K N Gas Marketing, Inc. | 02–28–94 | G–S | 2,460 | N | F | 01–01–94 | 12–31–84 |
| ST94–4372 | ANR Pipeline Co ... | Southern Natural Gas Co. | 02–28–94 | G | 8,484 | N | F | 11–01–92 | 08–18–94 |
| ST94–4373 | ANR Pipeline Co ... | Kaztex Energy Management. | 02–28–94 | G–S | N/A | N | I | 12–01–93 | 10–31–96 |
| ST94–4374 | ANR Pipeline Co ... | Michigan Gas Co .. | 02–28–94 | G–S | 17,184 | N | F | 12–01–93 | 03–31–98 |
| ST94–4375 | ANR Pipeline Co ... | W H K, Inc ..... | 02–28–94 | G–S | 15,000 | N | I | 04–01–92 | Indef |
| ST94–4376 | Colorado Interstate Gas Co. | K N Gas Marketing, Inc. | 02–28–94 | G–S | 1,750 | N | F | 01–01–94 | 12–31–08 |
| ST94–4377 | Iroquois Gas Trans. System, L.P. | New England Power Co. | 02–28–94 | G–S | 576,000 | N | I | 02–01–94 | Indef |
| ST94–4378 | Iroquois Gas Trans. System, L.P. | Ocean State Power, G.P. | 02–28–94 | G–S | 576,000 | N | I | 02–04–94 | Indef |
| ST94–4379 | Iroquois Gas Trans. System, L.P. | Bay State Gas Co . | 02–28–94 | G–S | 576,000 | N | I | 01–26–94 | Indef |
| ST94–4380 | Iroquois Gas Trans. system, L.P. | Phibro Energy USA, Inc. | 02–28–94 | G–S | 576,000 | N | I | 02–06–94 | Indef |
| ST94–4381 | Iroquois Gas Trans. System, L.P. | Connecticut Natural Gas Corp. | 02–28–94 | G–S | 6,831 | N | F | 02–08–94 | 03–01–94 |
| ST94–4382 | Iroquois Gas Trans. System, L.P. | Direct Gas Supply/ Iesco. | 02–28–94 | G–S | 19,685 | N | F | 01–26–94 | 02–01–94 |
| ST94–4383 | Iroquois Gas Trans. System, L.P. | New England Power Co. | 02–28–94 | G–S | 30,183 | N | F | 02–01–94 | 03–01–94 |
| ST94–4384 | Iroquois Gas Trans. System, L.P. | Enron Gas Marketing, Inc. | 02–28–94 | G–S | 9,891 | N | F | 02–01–94 | 03–01–94 |
| ST94–4385 | Iroquois Gas Trans. System, L.P. | New England Power Co. | 02–28–94 | G–S | 30,789 | N | F | 02–08–94 | 03–01–94 |
| ST94–4386 | Transok Gas Transmission Co. | ANR Pipeline Co., et al. | 02–28–94 | C | 20,000 | N | I | 02–01–94 | Indef |
| ST94–4387 | Transok Gas Transmission Co. | ANR Pipeline Co., et al. | 02–28–94 | C | 100,000 | N | I | 02–02–94 | Indef |
| ST94–4388 | Transok Gas Transmission Co. | ANR Pipeline Co., et al. | 02–28–94 | C | 40,000 | N | I | 02–02–94 | Indef |

| Docket No.* | Transporter/seller | Recipient | Date filed | Part 284 subpart | Est. max. daily quantity** | Aff. Y/A/N*** | Rate sch. | Date commenced | Projected termination date |
|---|---|---|---|---|---|---|---|---|---|
| ST94–4389 | Corpus Christi Transmission Co. | Texas Eastern Transmission Co. | 02–28–94 | C | 15,000 | N | I | 09–01–93 | 11–01–95 |
| ST94–4390 | Corpus Christi Transmission Co. | Transcontinental Gas Pipeline Corp. | 02–28–94 | C | 200,000 | N | I | 09–01–93 | 09–01–08 |
| ST94–4391 | Corpus Christi Transmission Co. | Transcontinental Gas Pipeline Corp. | 02–28–94 | C | 30,000 | N | I | 09–01–93 | 04–01–96 |
| ST94–4392 | Corpus Christi Transmission Co. | Texas Eastern Transmission Co. | 02–28–94 | C | 200,000 | N | I | 09–01–93 | 09–01–08 |
| ST94–4393 | Magnolia Pipeline Corp. | Southern Natural Gas Pipeline Co. | 02–28–94 | C | 25,000 | N | I | 01–01–94 | Indef |
| ST94–4394 | Enogex Inc ..... | Williams Natural Gas Co. | 02–28–94 | C | 100,000 | N | I | 02–10–94 | Indef |
| ST94–4395 | Transtexas Pipeline | Trunkline Gas Co .. | 02–28–94 | C | 25,000 | N | I | 02–01–94 | Indef |
| ST94–4396 | Transtexas Pipeline | Natural Gas Pipeline Co. of America. | 02–28–94 | C | 25,000 | N | I | 02–01–94 | Indef |
| ST94–4397 | Transtexas Pipeline | El Paso Natural Gas Co. | 02–28–94 | C | 25,000 | N | I | 02–09–94 | Indef |
| ST94–4398 | Valero Transmission, L.P. | Transwestern Pipeline Co. | 02–28–94 | C | 10,000 | N | I | 02–12–94 | Indef |

* Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).

** Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.

*** Affiliation of reporting company to entities involved in the transaction. A "Y" indicates affiliation, an "A" indicates marketing affiliation, and A "N" indicates no affiliation.

[FR Doc. 94–7636 Filed 3–31–94; 8:45 am]
BILLING CODE 6717–01–P

## Federal Energy Regulatory Commission

**[Docket No. CP94–295–000, et al.]**

## Northern Natural Gas Company, et al.; Natural Gas Certificate Filings

March 24, 1994.

Take notice that the following filings have been made with the Commission:

### 1. Northern Natural Gas Co.

[Docket No. CP94–295–000]

Take notice that on March 17, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP94–295–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor units and stations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern indicates that the compressor units and stations to be abandoned are located in Beaver County, Oklahoma and Lipscomb, Reeves, Terry, Carson, Hansford and Zavala Counties, Texas. Northern states that it proposes to abandon these compressor units and stations because they are no longer required to maintain deliverability in the effected gathering systems. Northern asserts that the abandonment of the units and stations will not result in the abandonment of service to any of Northern's existing customers or producers, nor will the proposed abandonment adversely affect capacity since the compression is no longer needed to receive the remaining gas supplies available from the upstream gathering systems.

*Comment date:* April 14, 1994, in accordance with Standard Paragraph F at the end of this notice.

### 2. Tennessee Gas Pipeline Co., Transcontinental Gas Pipe Line Corp.

[Docket No. CP94–301–000]

Take notice that on March 22, 1994, Tennessee Gas Pipeline Company (Tennessee), P. O. Box 2511, Houston, Texas 77252–2511, and Transcontinental Gas Pipeline Corporation (Transco), P. O. Box 1396, Houston, Texas 77251 (jointly Applicants) filed in Docket No. CP94–301–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain exchange agreements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they exchange natural gas at various points of interconnection and make deliveries of natural gas to common customers for each other's account pursuant to certificate authorization granted in Docket No. CP67–35 and an exchange agreement dated June 1, 1966, as amended. Tennessee provides its service under its Rate Schedule X–28 and Transco under its Rate Schedule X–45.

Applicants further state that they also provide an exchange service where Transco delivers natural gas to Tennessee near Louise, Texas and Tennessee delivers equivalent quantities of natural gas to Transco at an interconnection near Crowley, Louisiana. This exchange is performed pursuant to certificate authorization granted in Docket No. CP74–331 and an exchange agreement dated June 25, 1974, as amended, it is stated. Tennessee provides its service under its Rate Schedule X–44 and Transco under its Rate Schedule X–74.

Applicants assert that the June 1, 1966, exchange agreement, as amended, has no termination provision but that Applicants agreed to the termination by letters dated December 8, 1993, and March 1, 1994.

Tennessee states that it notified Transco by letter dated April 23, 1993 of its intent to terminate the June 25, 1974, agreement, as amended, upon expiration of its primary term on October 31, 1994. Transco agreed to this termination by letter dated June 8, 1993, it is stated.

Applicants assert that the restructuring of services under Order No. 636 has rendered the exchange services unnecessary and obsolete.

Applicants request the Commission grant the abandonment of the exchanges effective November 1, 1994.

Applicants do not propose to abandon any facilities.

*Comment date:* April 14, 1994, in accordance with Standard Paragraph F at the end of this notice.

**3. Colorado Interstate Gas Co.**

[Docket No. CP94–303–000]

Take notice that on March 22, 1994, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP94–303–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate new receipt and delivery facilities in order to deliver gas to and receive gas from Keyes Helium Company, LLC (KHC), under CIG's blanket certificate issued in Docket No. CP83–21–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG proposes to construct and operate new receipt and delivery facilities in Cimarron County, Oklahoma in order to connect CIG's existing facilities to new processing plants owned by KHC. It is stated that such plants will consist of an amine plant for the extraction of carbon dioxide and a separate helium extraction plant. It is further stated that the facilities will be located within the fenced area of CIG's existing Sturgis Compressor Station and will consist of 200 feet of pipe, taps and side valves, metering and appurtenant facilities. CIG states that the capacity of the facilities will be 11,000 Mcf per day.

*Comment date:* May 9, 1994, in accordance with Standard Paragraph G at the end of this notice.

**4. Natural Gas Pipeline Company of America**

[Docket No. CP94–305–000]

Take notice that on March 23, 1994, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP94–305–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon, effective December 31, 1993, a firm transportation service provided by Natural under its Rate Schedule X–136 for ANR Pipeline Company (ANR) authorized in Docket No. CP83–209–000, all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural states that pursuant to a December 15, 1982, gas transportation agreement, as amended, ANR made available on a firm basis up to 1,500 Mcf of natural gas per day and on an interruptible basis up to 375 MMBtu (Overrun Gas) to Natural in the Southwest Burns Flat Area of Washita County, Oklahoma. It is stated that Natural then delivered equivalent volumes, less reduction for fuel and unaccounted for gas, to ANR in Hansford County, Texas.

Natural states that by letter agreement dated January 19, 1994, Natural and ANR agreed to terminate the gas transportation agreement, and Natural's Rate Schedule X–136 transportation service, effective December 31, 1993. Therefore, Natural requests authority, effective December 31, 1993, to abandon its transportation service for ANR performed under the December 15, 1982 gas transportation agreement, as amended, and Natural's Rate Schedule X–136 authorized in Docket No. CP83–209.

*Comment date:* April 14, 1994, in accordance with Standard Paragraph F at the end of this notice.

**Standard Paragraphs**

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7821 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–P

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[Docket No. PR94–9–000]

## Michigan Consolidated Gas Co.; Intent To Change Rate Election

March 28, 1994.

Take notice that on March 2, 1994, Michigan Consolidated Gas Company (MichCon) notified the Commission of its intent to change its rate election pursuant to § 284.123(b)(1) of the Commission's regulations, for rates to be charged for the transportation or storage of natural gas under its § 284.224 blanket certificate. MichCon notes that when it filed for its blanket certificate, it did not have existing rates for comparable city-gate service on file with the appropriate state regulatory agency. Therefore, it elected rates under § 284.224(e)(2). However, in 1993, the Michigan Public Service Commission (MPSC) approved three new Rate Schedules, TOS–1, TOS–2, and CS–1 for off-system intrastate service. Consequently, by this filing, MichCon elects to charge the same rates contained in its intrastate off-system transportation and storage rate schedules which are on file with the MPSC for all new transportation and storage arrangements effective on or after April 1, 1994.

MichCon is a local distribution company performing jurisdictional transportation an storage services under section 311 of the Natural Gas Policy Act of 1978 pursuant to a blanket certificate issued in Docket No. CP80–340.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed within 20 days following publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. A copy of the filing is on file with the Commission and is available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7758 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP94–302–000]**

## Northern Natural Gas Co.; Application

March 28, 1994.

Take notice that on March 22, 1994, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP94–302–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon firm transportation service for Westar Transmission Company, (Westar), all as more fully set forth in the application on file while the Commission and open to public inspection.

Nothern proposes to abandon the transportation service performed under Rate Schedule T–7 of its FERC Gas Tariff. The transportation service was originally authorized in Docket No. CP72–236.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 18, 1994, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7759 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP94–298–000]**

## Transwestern Pipeline Co.; Request Under Blanket Authorization

March 28, 1994.

Take notice that on March 21, 1994, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP94–298–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate tap and value at a new point of delivery in Eddy County, NM, under Transwestern's blanket certificate issued in Docket No. CP82–534–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open the public inspection.

Specifically, Transwestern proposes to install and operate a delivery point capable of delivering up to 800 Mcf per day of natural gas to Continental Natural Gas, Inc., a producer, located in Eddy County.

Construction cost of the delivery point facilities is estimated to be $6,600.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 94–7760 Filed 3–31–94; 8:45 am]

BILLING CODE 6717–01–M

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRC–4856–7]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before May 2, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at ETA, (202) 260–2740

**SUPPLEMENTARY INFORMATION:**

### Office of Solid Waste and Emergency Response

*Title:* Notification of Episodic Releases of Oil and Hazardous Substances, EPA ICR # 1049.07. This ICR requests renewal of a currently approved collection (OMB #2050–0046).

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[1] 12 FERC ¶ 61,044 (1980); 55 FERC ¶ 61,001 (1991); 57 FERC ¶ 61,108 (1991).

*Abstract:* The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) establishes broad Federal authority to respond to releases of hazardous substances from vessels and facilities. A "hazardous substance" is defined in section 101(14) of CERCLA by reference to other environmental statutes, including Clean Water Act (CWA) section 311 and 307; Clean Air Act (CAA) section 112; the Resource Conservation and Recovery Act (RCRA) section 3001; the Toxic Substances Control Act (TSCA) section 7; and CERCLA section 102(a). There are currently about 793 CERCLA hazardous substances, another 1,500 radionuclides, and an unspecified number of unlisted RCRA hazardous wastes that are also considered CERCLA hazardous substances. When the CAA Amendments were enacted on November 15, 1990, 190 air pollutants were listed as hazardous under section 112(b) of the CAA. While the majority of those pollutants were already CERCLA hazardous substances with established Reportable Quantities (RQs), those not previously listed were assigned the statutory RQ of one pound. The Agency has proposed RQ adjustments for 47 of the individual substances in an October 22, 1993, Notice of Proposed Rulemaking (NPRM 58 FR 54836).

CERCLA section 103 reporting requirements are triggered following the release of a hazardous substance to the environment that is above its assigned RQ. The person in charge of a facility must immediately notify the National Response Center (NRC) about the release and provide general background information, such as the location of the incident and the name and address of the discharger, as well as more detailed information about the circumstances surrounding the release, including the type of material(s) released, environmental medium(a) affected, and cause(s) and source(s) of the release. Notification under CERCLA section 103(a) is intended to ensure that Federal authorities receive prompt notification of hazardous substance releases for which a timely response may be necessary to protect public health, welfare or the environment.

*Burden Statement:* The estimated annual public reporting burden for this collection of information is estimated to average 4.1 hours per release, including time for reviewing regulatory requirements, gathering the required release information, contacting the NRC about the release, and keeping a log.

*Respondents:* Anyone in charge of a facility or vessel from which a hazardous substance was spilled or released into the environment in quantities greater than its RQ.

*Estimated No. of Respondents:* 29,844 release reports.

*Estimated Total Annual Burden on Respondents:* 122,360 hours.

*Frequency of Collection:* On occasion—as a release occurs.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (Mail Code: 2136), 401 M Street SW., Washington, DC 20460;

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20530.

Dated: March 24, 1994.

**Paul Lapsley,**

*Director, Regulatory Management Division.*

[FR Doc. 94–7853 Filed 3–31–94; 8:45 am]

BILLING CODE 6560–50–M

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**[ER–FRL–4709–9]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 14, 1994 through March 18, 1994 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (58 FR 18392).

### Draft EISs

*ERP No. D–AFS–G65058–NM*

Rating EC2, Diamond Bar Allotment Management Plan, Implementation, Gila National Forest, Mimbres Ranger District, Sierra and Catron Counties, NM.

*Summary:* EPA requested that additional information and analysis be provided in the Final EIS on the following areas: The USFS' selection of Alternative C as the preferred alternative; discussion of range developments; expanded impact analysis on soils, groundwater, and natural processes.

*ERP No. D–AFS–J60013–CO*

Rating EO2, Joe Wright Reservoir and Dam, Land Use Authorization and Special Use Permit, Roosevelt National Forest, City of Fort Collins, Larimer County, CO.

*Summary:* EPA had environmental objections to the proposed alternative since it does not impose terms and conditions requiring new bypass and replacement flows necessary to protect aquatic habitat. Additional information is needed in the Final EIS particularly regarding the flexibility of each permittee to subsequently capture and store bypassed flow in lower reservoirs using existing water storage.

*ERP No. D–AFS–K65160–CA*

Rating LO, North Yuba Trail Construction Project, between Rocky Rest in Indian Valley to Goodyears Bar, Tahoe National Forest, Downieville Ranger District, Sierra County, CA.

*Summary:* EPA expressed a lack of objections to the proposed action and commends Forest Service efforts to expand recreational access to public lands to carry out the goals of its longterm recreational plans.

*ERP No. D–AFS–L65222–OR*

Rating LO, Newberry National Volcanic Monument Comprehensive Management Plan, Implementation, Deschutes National Forest, Deschutes County, OR.

*Summary:* EPA had found no significant statutory or jurisdictional issues of concern. The EIS was an informative, well prepared and comprehensive document.

*ERP No. D–BLM–J65212–WY*

Rating EC2, Newcastle Resource Management Plan, Implementation, Evaluates Alternatives for the Use of Public Lands and Resources in Portions of Wyoming, Crook, Niobrara and Westion Counties, WY.

*Summary:* EPA expressed environmental concerns regarding potential impacts to wetlands and reparian areas and air quality. EPA requested additional information on these issues as well as an expanded discussion on ecosystem management and bio-diversity.

*ERP No. D–BLM–L65214–OR*

Rating EC2, John Day River Management Plan, Implementation, Wild and Scenic River Segments and Land & State Scenic Waterways Segments, Prineville District, OR.

*Summary:* EPA expressed environmental concerns about alternatives and potential impact on water quality. EPA requested clarifying information in the final document.

*ERP No. D–UAF–K11021–CA*

Rating EC2, Castle Air Force Base (AFB) Disposal and Reuse, Implementation, Merced County, CA.

*Summary:* EPA expressed environmental concerns regarding

potential impacts to wetlands, and air quality. EPA recommended transfer of sensitive wetland habitats to US Fish and Wildlife Service or the National Park Service. EPA noted that the sections of the DEIS concerning cumulative environmental impacts, project-related growth, and air quality should be more fully expanded upon in the FEIS.

**Final EISs**

*ERP No. F-AFS-L82012-ID*

Lucky Peak Nursery Pest Management Program, Implementation, Intermountain Region, Boise National Forest, Ada County, ID.

*Summary:* EPA provided no formal written comments. EPA had no environmental objection to the preferred alternative as described in the EIS.

*ERP No. F-FRC-L05201-ID*

Shelley (FERC. NO. 5090) Hydroelectric Project on the Snake River, Construction, License, City of Idaho Falls, Bingham County, ID.

*Summary:* EPA continued to have environmental objections with the action alternatives.

*ERP No. F-NPS-E61034-MS*

Natchez National Historical Park Management, Development and Use Plan, Implementation, Adams County, MS.

*Summary:* EPA was satisfied that the bluff stabilization concerns have been addressed and that the NPS would prepare supplemental environmental documents prior to site development.

*ERP No. F-USA-A10066-00*

Theater Missile Defense (TMD) Comprehensive System, Research and Development, Active Defense Counterforce and Passive Defense, Implementation, United States.

*Summary:* EPA expressed environmental concerns that the final document did not provide the level of analysis and disclosure of impacts as requested in EPA's comment letter on the draft document.

*ERP No. FS-FHW-B40050-MA*

Central Artery/I-93 Third Harbor Tunnel/I-90. Extension, Updated and Additional Information, Design Alternatives for the Charles River Crossing, Funding, US COE Section 10 and 404 Permits, US CGD Permits and EPA NPDES Permit, Suffolk County, MA.

*Summary:* EPA expressed environmental concerns with the proposed mitigation to offset project related impacts to waters of the United States would be of limited environmental value and recommended that alternative mitigation measures be implemented. EPA provided a list of potential substitute mitigation measures to be included in the Record of Decision (ROD). EPA also recommended that FHWA include an air quality project level conformity determination in the ROD.

Dated: March 29, 1994.

**Marshall Cain,**

*Senior Legal Advisor, Office of Federal Activities.*

[FR Doc. 94-7864 Filed 3-31-94; 8:45 am]

BILLING CODE 6560-50-U

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**[ER-FRL-4709-8]**

## Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075.

Weekly receipt of Environmental Impact Statements Filed March 21, 1994 Through March 25, 1994 Pursuant to 40 CFR 1506.9.

EIS No. 940094, DRAFT EIS, FHW, NB, SD, Missouri River Bridge (Project No. F-14-4(104) Construction, Connecting N-12 in Nebraska to SD-37 in South Dakota, COE Section 404, US Coast Guard Bridge and Flood Plain Permits, Knox Co., NB and Bon Homme Co., SD, Due: May 16, 1994, Contact: Philip E. Barnes (402) 437-5521.

EIS No. 940095, FINAL EIS, SFW, NV, Desert National Wildlife Ranger Mineral Withdrawal Project, Implementation, Clark and Lincoln Counties, NV, Due: May 09, 1994, Contact: Mark A. Strong (503) 231-2235.

EIS No. 940096, DRAFT EIS, EPA, General Provisions for 40 CFR Part 63: National Emission Standards for Hazardous Air Pollutants for Source Categories, Implementation, Due: May 16, 1994, Contact: Shirley Tabler (919) 541-5256.

EIS No. 940097, DRAFT EIS, BLM, ID, Bennett Hills Resource Management Plan, Implementation, Shoshone District, Lincoln, Gooding, Camas, Jerome, Blaine and Elmore Counties, ID, Due: July 01, 1994, Contact: Mary Gaylord (208) 886-7201.

EIS No. 940098, DRAFT EIS, FAA, AR, Northwest Arkansas Regional Airport, Construction of Replacement Airport for Drake Field in Fayetteville, Funding, Land Acquisition and Airport Layout Plan, City of Fayetteville, AR, Due: May 09, 1994, Contact: Brad Kutchins (817) 222-5651.

EIS No. 940099, FINAL EIS, AFS, CA, Mount Baldy Land Exchange Project, Implementation and Special-Use-Permit, Angeles National Forest, San Antonio Canyon, Los Angeles and San Bernardino Counties, CA, Due: May 09, 1994, Contact: Michael J. Rogers (818) 574-1613.

EIS No. 940100, DRAFT EIS, AFS, MT, Bear Timber Sales, Implementation, Bitterroot National Forest, Darby Ranger District, Ravalli County, MT, Due: May 16, 1994, Contact: Rick Floch (406) 821-3913.

EIS No. 940101, DRAFT EIS, BPA, WY, CO, NM, UT, AZ, Salt Lake City Area Integrated Hydroelectric Power Plants Projects, Implementation, WY, CO, NM, UT and AZ, Due: June 30, 1994, Contact: Carol Borgstrom (202) 586-4600.

EIS No. 940102, FINAL EIS, COE, CA, New San Clemente Project, Danard Reservoir Construction, Monterey Peninsula Water Supply Management, New Information about the New Los Padres Project, Section 404 Permit, Carmel River, Monterey Counties, CA, Due: May 09, 1994, Contact: Roger Golden (415) 744-3344.

EIS No. 940103, DRAFT EIS, BPA, Energy Planning and Management Program to service (15) States from Minnesota in the northeast to California in the southwest, Power Marketing Initiative, Implementation, Due: May 16, 1994, Contact: Robert Fullerton (303) 275-1610.

EIS No. 940104, FINAL EIS, FTA, OR, WA, Hillsboro Corridor Transit Improvements, Implementation, Between S.W. 185th Avenue and downtown Hillsboro, Funding, Washington, Clackamas and Multnomah Counties, OR and Clark County, WA, Due: May 09, 1994, Contact: Donald J. Emerson (202) 366-0096.

EIS No. 940105, DRAFT EIS, BPA, OR, Hermiston Generating Project, Construction of a Gas-fired Cogeneration Power Plant, Approval of Permits, Umatilla County, OR, Due: May 16, 1994, Contact: Dawn Boorse (503) 230-5678.

EIS No. 940106, FINAL EIS, AFS, TN, 1996 Olympic Whitewater Slalom Venue, Construction and Operation, Site Selected, Ocoee River, Cherokee National Forest, Ocoee Ranger District, Polk County, TN, Due: May 09, 1994, Contact: Keith Sandifer (615) 476-9700.

EIS No. 940107, DRAFT EIS, GSA, WA, Seattle Federal Courthouse Building (Project No. ZWA-81061), Site Selection, Construction and Operation, King County, WA, Due: May 16, 1994, Contact: Donna M. Meyer (206) 931-7675.

EIS No. 940108, DRAFT EIS, FHW, WA, WA-525/Paine Field Boulevard Project, Improvements between WA-

99 to WA–526, Funding and COE Section 404 Permit, City of Mukitteo, Snohomish County, WA, Due: May 16, 1994, Contact: Barry F. Moorehead (206) 753–2120.

**Amended Notices**

EIS No. 940092, DRAFT EIS, SCS, WV, North Fork Hughes River Watershed Plan, Installation of a Multi-purpose Roller Compacted Concrete Dam, Implementation and Funding, Flood Protection and COE Section 404 Permits, Ritchie County, WV, Due: May 09, 1994, Contact: Rollin N. Swank (304) 291–4152. Published FR 03–25–94—Correction to the State, change WA to WV.

Dated: March 29, 1994.

**Marshall Cain,**

*Senior Legal Advisor, Office of Federal Activities.*

[FR Doc. 94–7863 Filed 3–31–94; 8:45 am]

BILLING CODE 6560–50–U

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**[OPP–66171B; FRL–4770–9]**

## Methazole; Amendment of Cancellation Order

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of existing stocks provision.

**SUMMARY:** On January 13, 1993, EPA published a cancellation order that restricted the distribution, sale, and use of methazole (2-(3,4-dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione). This restriction was an interim measure until the Agency reviewed additional toxicological data. Sandoz had earlier requested voluntary cancellation of all remaining methazole products and the January 1993 cancellation order also announced receipt and acceptance of their cancellation request. EPA subsequently received the additional toxicological data and concluded based on it, that distribution, sale, and use of remaining stocks of methazole would be conditionally allowed until December 31, 1993. This notice is amending the Agency's existing stocks provision to allow the conditional distribution, sale, and use of remaining methazole product until December 31, 1994.

**DATES:** The extension of the conditional distribution, sale, and use of existing stocks until December 31, 1994, is being granted in order to allow the use of the remaining stocks of methazole product.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joseph Bailey, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, 3rd Floor, Crystal Station 1, 2800 Jefferson Davis Highway, Arlington, VA (703) 308–8173.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Methazole, a selective herbicide used to control several varieties of weeds in cotton, was registered for preemergence use west of the Mississippi and directed postemergence use both east and west of the Mississippi. Most of the methazole produced for cotton production is applied in Louisiana and Mississippi with some use occurring in other cotton producing States. The season for methazole use typically begins in April/May.

On May 18, 1992, as provided for under FIFRA section 6(f)(1)(A), Sandoz Agro., Inc. requested that EPA cancel their remaining pesticide registrations containing methazole. Prior to the submission of the voluntary cancellation request, Sandoz Agro, Inc. had submitted to the Agency, pursuant to FIFRA section 6(a)(2), preliminary results from a rat reproduction study indicating that a high percentage of the dosed generation's offspring developed cataracts. The Agency concluded from these test results that an unacceptable risk was possible to those workers exposed to methazole, particularly mixer/loaders and applicators. The products for which cancellation was requested are listed in Table 1 below.

TABLE 1.—METHAZOLE SECTION 3 (NATIONAL) REGISTRATIONS: VOLUNTARY CANCELLATION REQUESTS

| Company Registration Number | Company Name/Address | Product Registration Number | Product Name |
|---|---|---|---|
| 55947 | Sandoz Agro, Inc., 1300 East Touhy Avenue, Des Plaines, IL 60018 | 55947-22 | Technical Probe |
| | | 55947-23 | Probe 75 Wettable Powder |

In September 1992, Sandoz offered to conduct two studies, a dermal absorption study and a developmental toxicity study, in order to provide additional data on the potential risks. The Agency agreed to wait and consider the additional data to revise the risk assessment for worker exposure before making a final decision on disposition of the existing stocks. In the **Federal Register** of January 13, 1993 (58 FR 4167), the Agency published a Notice of Receipt of Request for Voluntary Cancellation/Cancellation Order which announced acceptance of Sandoz' request for voluntary cancellation of its methazole products and restricted the distribution, sale, and use of all remaining stocks of methazole until the Agency had considered the additional data. In case the Agency's revised risk assessment indicated an acceptable risk to workers, Sandoz requested the Agency to review supplemental labeling revisions that would be applicable to the existing stocks and would lower worker exposure to methazole. The Agency reviewed the proposed supplemental labeling revisions and on February 26, 1993, notified Sandoz that, should the Agency allow any further distribution, sale, and use of the canceled methazole products, it would condition such distribution, sale and use on the revised supplemental labeling being provided at the time of sale of all existing stocks. The approved supplemental label revisions are as follows: (1) Deletion of all preemergence uses for methazole, (2) limit use to post-emergence, directed band application only, and (3) reduce the allowable rate of application to a maximum of 0.33 pound of product (0.25 pound of active ingredient) per acre applied on a band.

In March 1993, Sandoz provided the results of the two studies as agreed upon with the Agency. The Agency reviewed the data and concluded that risks to adult workers are acceptable when exposed to methazole used in accordance with approved supplemental labeling. As a result, the Agency amended the January 1993 cancellation order with a **Federal Register** notice (May 26, 1993, 58 FR 30166) that announced the removal of the restriction on the distribution, sale, and use of existing stocks of methazole products. Based on the annual usage of approximately 350,000 to 400,000 pounds of product, Sandoz felt that the estimated 50,000 pounds of product remaining in the hands of distributors and sellers would be sold and used during the 1993 growing season. The Agency requested Sandoz to report any stocks that remained with distributors or sellers as of December 31, 1993. The end-of-year accounting of those distributors and sellers originally holding inventories of existing stocks showed that 1,925 pounds remained. In order to allow this small amount of product to be sold and used, Sandoz has requested the Agency to extend the date by which all existing stocks must be

sold through the 1994 growing season. The Agency has considered the request and has agreed to extend this date until December 31, 1994.

**II. Revised Cancellation Order Amendment**

For purposes of this amended Order, existing stocks are defined as those stocks of methazole product (EPA Registration Number 55947–23) released for shipment on or before January 13, 1993, and currently in the hands of distributors, sellers, and users other than Sandoz. The Agency has determined that short-term exposure to adult mixer/loader/applicators of the remaining existing stocks of methazole will not present unreasonable adverse effects when used in accordance with the revised supplemental labeling discussed earlier in this Notice. Accordingly, the Agency is further amending the Cancellation Order issued on January 13, 1993, in order to allow, pursuant to FIFRA section 6(a)(1), continued distribution, sale, and use of existing stocks of methazole product until December 31, 1994, provided that the supplemental labeling discussed earlier in this Notice is provided to purchasers or recipients at the time of such distribution or sale. No distribution or sale of existing stocks of methazole is permitted under this Amended Order unless the revised labeling is so provided. No product produced in accordance with the terms of the former EPA Registration Number 55947–23 may be used by any person unless the product is used in accordance with the terms of the previously-approved EPA labeling for that product as modified by the terms of the supplemental labeling discussed earlier in this Notice.

Dated: March 24, 1994.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

[FR Doc. 94–7852 Filed 3–31–94; 8:45 am]

BILLING CODE 6560–50–F

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirements Submitted to Office of Management and Budget for Review

March 25, 1994.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on these information collections should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

*OMB Number:* 3060–0164.

*Title:* Section 25.300, Developmental Operations.

*Action:* Revision of currently approved collection.

*Respondents:* Businesses or other for-profit (including small businesses).

*Frequency of Response:* On occasion reporting requirement.

*Estimated Annual Burden:* 40 responses; 24 hours average burden per response; 960 hours total annual burden.

*Needs and Uses:* Subpart E of part 25 (§ 25.300) of the FCC rules contains the technical and legal requirements for developmental operation. On 10/21/93, the Commission adopted a Report and Order establishing rules to govern the licensing and regulation of non-voice non-geostationary mobile-satellite service systems (NVNG MSS). Applicants soliciting developmental operation in the NVNG mobile satellite service are subject to the requirements of § 25.300. The information is used by the FCC, other licensees of the spectrum and the public to assure that part 25 developmental licensees are operating in accordance with their authorizations and the Commission's rules.

*OMB Number:* 3060–0343.

*Title:* Section 25.140, Qualifications of Domestic Satellite Space Station Licensees.

*Action:* Revision of a currently approved collection.

*Respondents:* Businesses or other for-profit.

*Frequency of Response:* On occasion reporting requirement.

*Estimated Annual Burden:* 25 responses; 1,000 hours average burden per responses; 25,000 hours total annual burden.

*Needs and Uses:* The Communications Act authorizes the FCC to require applicants to provide information concerning their legal, financial and technical qualifications to enable the Commission to determine whether grant of a license will serve the public interest. To enable the FCC to determine whether a domestic satellite applicant is qualified to construct, launch and operate its proposed system, the FCC has traditionally required certain specified information to be included in applications. Section 25.140 was recently revised by the Commission in CC Docket No. 92–76, Licensing Policies and Procedures, Domestic Common Carrier Satellite Service. The information is to be used to determine if domestic satellite applicants are qualified to construct and launch their proposed systems, and have a justified need for additional satellites. Without such information the Commission could not determine whether to issue licenses to the carriers that provide telecommunications services to the public and therefore, fulfill its statutory responsibilities pursuant to the Communications Act of 1934, as amended.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 94–7724 Filed 3–31–94; 8:45 am]

BILLING CODE 6712–01–M

## FEDERAL RESERVE SYSTEM

### Agency Forms Under Review

**Background**

Notice is hereby given of the final approval of proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

**FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202–395–7340).

Final approval under OMB delegated authority of the implementation of the following report:

1. *Report title:* National Survey of Small Business Finances.

*Agency form number:* FR 3044.

*OMB Docket number:* 7100–0262.

*Frequency:* One-time survey.

*Reporters:* Small businesses.

*Annual reporting hours:* 4,500.

*Estimated average hours per response:* 0.75.

*Number of respondents:* 6,000.

Small businesses are affected.

*General description of report:* This information collection is voluntary and is authorized by law (12 U.S.C. 251, 1817(j), 1828(c) and 1841 et seq.) and individual respondent information is given confidential treatment (5 U.S.C. 552(b)(4)).

This one-time telephone survey of small businesses will be conducted between March 1994 and November 1994 by employees of a private contractor. The primary purpose of the survey is to provide information that can be reported to Congress in compliance with section 477 of the Federal Deposit Insurance Corporation Improvement Act (FDICIA) regarding the availability of credit to small businesses, including minority-owned businesses.

Board of Governors of the Federal Reserve System, March 28, 1994.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 94–7746 Filed 3–31–94; 8:45 am]

BILLING CODE 6210–01–P

## Financial Corporation of Louisiana; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 94-6780) published on page 13727 and 13728 of the issue for Wednesday, March 23, 1994.

Under the Federal Reserve Bank of Atlanta heading, the entry for Financial Corporation of Louisiana is revised to read as follows:

*1. Financial Corporation of Louisiana*, Crowley, Louisiana, to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Crowley, and 8.25 percent of the voting shares of Progressive Bancorporation, Inc., Houma, Louisiana, and thereby indirectly acquire Progressive Bank & Trust Company, Houma, Louisiana.

In connection with this application, Applicant also proposes to engage *de novo* in acting as principal, agent, or broker for insurance that is directly related to extensions of credit by Applicant of its subsidiaries, and limited to assuring repayment of such extensions of credit in the event of the death, disability, or involuntary unemployment of the debtor, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; and by making, acquiring, or servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Comments on this application must be received by April 15, 1994.

Board of Governors of the Federal Reserve System, March 28, 1994.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 94-7865 Filed 3-31-94; 8:45 am]

BILLING CODE 6210-01-F

## Leon Louis and Dianne J. Stelling, et al.; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than April 21, 1994.

**A. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Leon Louis and Dianne J. Stelling*, Cole Camp, Missouri, to acquire an additional 1.0 percent, for a total of 25.8 percent, of the voting shares of The Citizens-Farmers Bank of Cole Camp, Cole Camp, Missouri.

Board of Governors of the Federal Reserve System, March 28, 1994.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 94-7866 Filed 3-31-94; 8:45 am]

BILLING CODE 6210-01-F

## Valley National Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 25, 1994.

**A. Federal Reserve Bank of New York** (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

*1. Valley National Bancorp*, Wayne, New Jersey, to acquire up to 24.9 percent of the voting shares of Urban National Bank, Franklin Lakes, New Jersey.

**B. Federal Reserve Bank of Chicago** (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*1. Commercial Financial Corp.*, Storm Lake, Iowa, to acquire 100 percent of the voting shares of Central Trust Investment Inc., Cherokee, Iowa, and thereby indirectly acquire Central Trust and Savings Bank, Cherokee, Iowa.

**C. Federal Reserve Bank of Kansas City** (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

*1. Jefferson County Bancshares, Inc.*, Daykin, Nebraska, to acquire 13.3 percent of the voting shares of Plymouth Investment Company, Plymouth, Nebraska, and thereby indirectly acquire Farmers State Bank, Plymouth, Nebraska.

*2. Raton Capital Corporation*, Raton, New Mexico, to merge with Farmers & Stockmens Bancorporation, Clayton, New Mexico, and thereby indirectly acquire Farmers and Stockmens Bank of Clayton, Clayton, New Mexico.

Board of Governors of the Federal Reserve System, March 28, 1994.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 94-7867 Filed 3-31-94; 8:45 am]

BILLING CODE 6210-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

[Announcement Number 423]

### Public Health Conference Support Grant Program

#### Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR), announces the availability of fiscal year (FY) 1994 funds for a grant program for Public Health Conference Support.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of "Healthy People 2000," see the Section Where To Obtain Additional Information.)

**Authority:** This program is authorized under sections 104(i) (14) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, [42 U.S.C. 9604(i) (14) and (15)].

#### Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

#### Eligible Applicants

Eligible applicants are the official public health agencies of the States or their bona fide agents. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and federally recognized Indian tribal governments. State organizations, including State universities, State colleges, and State research institutions, must establish that they meet their respective State legislature's definition of a State entity or political subdivision to be considered an eligible applicant.

#### Availability of Funds

Approximately $250,000 is available in FY 1994 to fund approximately 10 awards. It is expected that the average award will be $25,000, ranging from $10,000 to $50,000. The awards will be made for a 12-month budget and project period. Funding estimates may vary and are subject to change.

1. Grant funds may be used for direct cost expenditures: salaries, speaker fees, rental of necessary equipment, registration fees, transportation costs (not to exceed economy class fare) for non-federal employees.

2. Funds may not be used for the purchase of equipment, payments of honoraria, alterations or renovations, organizational dues, entertainment/personal expenses, cost of travel and payment of a Federal employee, for per diem or expenses other than local mileage for local participants, or reimbursement of indirect costs. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds cannot be used for this purpose.

#### Recipient Financial Participation

Because this program provides partial funding only, it is necessary that organizations seeking these grant funds be able to show additional support in the form of finances, services, etc. For each organization contributing funding, a letter must be included documenting that support.

#### Purpose

This program will provide partial support for non-federal conferences on disease prevention, health promotion, and information/education projects related to hazardous substances in the environment. Applications are being solicited for conferences on: (1) Health effects of toxic substances; (2) Disease and exposure registries; (3) Hazardous substance removal and remediation; (4) Emergency response to toxic and environmental disasters; (5) Risk communication; (6) Disease surveillance; and (7) Investigation and research. Because conference support by ATSDR creates the appearance of ATSDR co-sponsorship, there will be active participation by ATSDR in the development and approval of those portions of the agenda supported by ATSDR funds. In addition, the ATSDR will reserve the right to approve or reject the content of the full agenda, speaker selection, and site selection. ATSDR funds will not be expended for non-approved portions of meetings. Contingency awards will be made allowing usage of only 10% of the total amount to be awarded until a final full agenda is approved by ATSDR. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon approval of the final full agenda. ATSDR reserves the right to terminate co-sponsorship if it does not concur with the final agenda.

#### Program Requirements

Grantees must meet the following requirements:

1. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speakers, fees, agenda composition and printing). Many of these items may be developed in conjunction with assigned ATSDR project personnel.

2. Provide draft copies of the agenda and proposed activities to ATSDR for approval. Submit copy of final agenda and proposed activities to ATSDR for approval.

3. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). ATSDR must review and approve of any materials with reference to ATSDR involvement or support.

4. Manage all registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures, etc.).

5. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

6. Develop and conduct education and training programs on prevention.

7. Participate in the analysis of data from conference activities that pertain to the impact on prevention.

8. Collaborate with ATSDR staff in reporting and disseminating results and relevant prevention education and training information to appropriate Federal, State, and local agencies, and the general public.

#### Evaluation Criteria

Applications for support of the types of conferences listed in the Purpose section above will be reviewed and evaluated according to the following criteria:

*1. Proposed Program and Technical Approach—50%*

The description of (a) the public health significance of the proposed conference including the degree to which the conference can be expected to influence public health practices; (b) the feasibility of the conference in terms of an operational plan; (c) clearly stated conference objectives and the potential for accomplishing those objectives; and (d) the method of evaluating the conference.

*2. The Qualification of Program Personnel—30%*

Evaluation will be based on the extent to which the proposal has described (a) the qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership, and (b) the competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish the proposed conference.

*3. Applicant Capability—20%*

Evaluation will be based on the description of (a) the adequacy and commitment of institutional resources to administer the program, and (b) the adequacy of the facilities to be used for the conference.

*4. Budget Justification and Adequacy of Facilities (Not Scored)*

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting conference activities.

**Executive Order 12372 Review**

This program is not subject to the Executive Order 12372 review.

**Public Health System Reporting Requirements**

This program is not subject to the Public Health System Reporting Requirements.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number is 93.161.

**Other Requirements**

*Paperwork Reduction Act*

Projects that involve the collection of information from 10 or more individuals and funded by the grant will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

**Application Submission and Deadline**

The original and two copies of the Application Form PHS 5161–1 shall be submitted in accordance with the schedule below:

*Application Deadline*

May 1, 1994
July 15, 1994

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305. By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.

*1. Deadline*

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the review committee. (Applicants must request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*2. Late Applications*

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications and will be returned to the applicant.

**Where To Obtain Additional Information**

A complete program description and information on application procedures are contained in the application package. Business management technical assistance may be obtained from Margaret A. Slay, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, telephone (404) 842–6799. Programmatic technical assistance may be obtained from Jim Carpenter, Project Officer, Agency for Toxic Substances and Disease Registry, Division of Health Studies, 1600 Clifton Road, NE., Mailstop E–33, Atlanta, Georgia 30333, telephone (404) 639–6206.

**Please Refer to Announcement Number 423 When Requesting Information and Submitting an Application**

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington DC 20402–9325, telephone (202) 783–3238.

Dated: March 28, 1994.

**Walter R. Dowdle, Ph.D.,**

*Deputy Administrator, Agency for Toxic Substances and Disease Registry.*

[FR Doc. 94–7789 Filed 3–31–94; 8:45 am]

BILLING CODE 4163–70–P

## Centers for Disease Control and Prevention

### Interagency Committee on Smoking and Health: Meeting

The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

*Name:* Interagency Committee on Smoking and Health.

*Time and Date:* 1:30 p.m.–4 p.m., April 18, 1994.

*Place:* Hubert H. Humphrey Building, 200 Independence Avenue SW., room 800, Washington, DC 20201.

*Status:* Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

*Purpose:* The Interagency Committee on Smoking and Health advises the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director of CDC, in the: (a) Coordination of research, educational programs, and other activities within the Department and with other Federal, State, local, and private agencies; and (b) establishment and maintenance of liaison with appropriate private entities, other Federal agencies, and State and local public health agencies with respect to smoking and health activities.

*Matters to be Discussed:* The agenda will focus on the findings and recommendations of the recently released Surgeon General's Report, "Preventing Tobacco Use Among Young People." Discussions will also center around how the member agencies and the public health community can take actions to prevent children from using tobacco. Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Substantive program information as well as summaries of the meeting and roster of committee members may be obtained from Karen M. Deasy, Executive Secretary, Interagency Committee on Smoking and Health, Office on Smoking and Health, NCCDPHP, CDC, 330 C Street SW., room 1229, Washington, DC, telephone 202/205–8500.

Dated: March 25, 1994.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 94–7793 Filed 3–31–94; 8:45 am]

BILLING CODE 4163–18–M

## National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

*Name:* NCVHS Executive Subcommittee.

*Time and Date:* 8:30 a.m.–5 p.m., April 20, 1994.

*Place:* Columbia Square, Seventh Floor, 555 Thirteenth Street NW., Washington, DC 20004–1109.

*Status:* Open.

*Purpose:* The purpose of this meeting is for the Executive Subcommittee to review the work plans of NCVHS and other subcommittees. The Executive Subcommittee will plan the June 7–9, 1994, NCVHS meeting.

*Contact Person for More Information:* Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: March 25, 1994.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 94–7792 Filed 3–31–94; 8:45 am]

BILLING CODE 4163–18–M

## Food and Drug Administration

**[Docket No. 94N–0053]**

## Conference on Scientific Issues Related to Potential Allergenicity in Transgenic Food Crops

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA), and the Environmental Protection Agency (EPA), are cosponsoring a conference on scientific issues associated with the potential for allergenic substances to occur in foods derived from transgenic plants. This conference will provide an opportunity for scientists to discuss relevant information with respect to food allergy and transgenic food crops.

**DATES:** The conference will be held on April 18 and 19, 1994. Registration must be received by April 8, 1994. Attendance will be limited to available space. Late registrations will be accepted on a space available basis.

**ADDRESSES:** The conference will be held at the Annapolis Marriott Waterfront, 80 Compromise St., Annapolis, MD. Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**

To register for the meeting contact: Creavery Lloyd, Office of Prevention, Pesticides, and Toxic Substances (7101), Environmental Protection Agency, 401 M St. SW., Washington, DC 20466, 202–260–1597.

For information on obtaining transcripts of the meeting or on the scientific agenda contact: Dennis M. Keefe, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9523.

**SUPPLEMENTARY INFORMATION:**

Plant scientists have a distinguished history of developing new agricultural food crops through classical methods of plant breeding and selection. In addition to traditional methods, scientists are using recent advances such as recombinant deoxyribonucleic acid (DNA) methods to develop new varieties of food crops. These new methods allow scientists to introduce genetic material from diverse plant, animal, and microbial sources into food crops. The agencies are aware that the potential exists for some of the proteins encoded by this newly introduced genetic material to cause allergic reactions in some people. The agencies believe that this issue deserves full discussion in the scientific community.

To foster this discussion and in view of the rapid progress of science, APHIS of the USDA, EPA, and FDA are jointly sponsoring a conference on scientific issues associated with the potential for allergenic substances to occur in foods derived from transgenic plants. This conference will provide an opportunity for scientists to discuss relevant information with respect to food allergy and transgenic food crops.

The conference agenda will be available at the meeting. The conference format will include presentations and discussion by scientific experts in various fields related to food allergy and agricultural research. At the conclusion of each session, the session moderator, may, as a matter of discretion, invite questions from the audience.

The following are examples of questions that will be discussed at the conference:

1. What general considerations are related to food allergy?
2. What foods are allergenic and how serious are reactions to such foods?
3. What are the characteristic T-cell and B-cell epitopes of food allergens?
4. What information is known about the relationship between dietary exposure and allergenic reaction?
5. What effect does the method of plant breeding (e.g., conventional or recombinant DNA methods) have on introducing or enhancing the potential allergenicity of foods?
6. Are there in vitro or animal tests that may be useful tools for assessing potential allergens in foods? If so, what are these tests?

Dated: March 25, 1994.

**Jane E. Henney,**

*Deputy Commissioner for Operations.*

[FR Doc. 94–7799 Filed 3–31–94; 8:45 am]

BILLING CODE 4160–01–F

## National Institutes of Health

## National Heart, Lung, and Blood Institute; Notice of Meeting

Notice is hereby given of the meeting of the National High Blood Pressure Education Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on April 15, 1994, from 9 a.m. to 1 p.m., at the Pooks Hills Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814 (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. Edward J. Roccella, Coordinator, National High Blood Pressure Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, room 4A05, Bethesda, Maryland 20892, (301) 496–0554.

**Claude Lenfant, M.D.,**

*Director, NHLBI.*

[FR Doc. 94–7856 Filed 3–31–94; 8:45 am]

BILLING CODE 4140–01–M

## National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Asthma Education Program Coordinating Committee, sponsored by the National Heart, Lung,

and Blood Institute on April 18, 1994, from 9 a.m. to 3 p.m., at the Pooks Hill Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland, 20814, (301) 897–9400.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Asthma Education and Prevention Program. Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants, and meeting summary, contact: Mr. Robinson Fulwood, Coordinator, National Asthma Education and Prevention Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, room 4A18, Bethesda, Maryland 20892, (301) 496–1051.

**Claude Lenfant, M.D.,**

*Director, NHLBI.*

[FR Doc. 94–7857 Filed 3–31–94; 8:45 am]

BILLING CODE 4140–01–M

## Public Health Service

### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, March 25, 1994.

(Call PHS Reports Clearance Officer on 202–690–7100 for copies of request).

1. Assessment of Laboratory Performance for PCR Detection of HIV–1 Clinical Specimens—New—This information will enable the Centers for Disease Control to establish methods for identifying and defining problems in the Polymerase Chair Reaction (PCR) testing process, and will assist CDC in developing strategies to maintain and improve performance in these aspects of PCR testing. The laboratory survey will provide CDC with necessary information on laboratory characteristics including the types of specimens collected and the testing methods employed.

*Respondents:* Businesses or other for-profit;
*Number of Respondents:* 60;
*Number of Responses per Respondent:* 1;
*Average Burden per Response:* .25 hour;
*Estimated Annual Burden:* 15 hours.

2. Protection and Advocacy for Individuals with Mental Illness Annual Performance Report—(Reinstatement, formerly 0980–0234)—Recipients of formula grants to provide protection and advocacy services to individuals with mental illness are required by law to report annually on their activities and accomplishments, including the number and types of persons served, the types of facilities covered, and the manner in which the activities are undertaken. The Advisory Council is required to submit a description of its activities and an assessment of the operations of the System. *Respondents:* State or local governments, Non-profit institutions.

| Title | Number of respondents | Number of responses per respondent | Average burden per response (hours) |
|---|---|---|---|
| Program Performance Report | 56 | 1 | 35 |
| Advisory Council Report | 56 | 1 | 10 |

Estimated Total Annual Burden—2,520 hours.

3. Mandatory Guidelines for Federal Workplace Drug Testing—New—9999–0023 and 0930–0158 (Revision)—EO 12564 certified the need for and implementation of a drug testing program for employees of Executive Agencies to assure a drug-free Federal workplace. These guidelines promulgate standards for the certification of laboratories to conduct urine drug testing and establish scientific and technical guidelines for drug testing programs to assure compliance with the intent of the EO. Included are the Drug Testing Custody and Control Form, the National Laboratory Certification Program Application Form, the National Laboratory Certification Program Application Inspection Report, and associated recordkeeping requirements. This revision expands coverage to include use of the Drug Testing Custody and Control Form with employees of the Department of Transportation's regulated commercial transportation industries. (Note: The Substance Abuse and Mental Health Services Administration (SAMHSA) is responsible for administrative management of this multi-agency activity. The Office of Management and Budget (OMB) has, therefore, also approved these materials under control number 0930–0158 and assigned a 1-hour burden to that SAMHSA control number to facilitate OMBs management of the activity. Accordingly, a duplicate submission for the same revision has been made to OMB, with a 1-hour burden, for 0930–0158). *Respondents:* Individuals or households; Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations.

| Title | Number of respondents | Number of responses per respondent | Average burden per response (hours) |
|---|---|---|---|
| Individuals | 7,484,000 | 1 | 0.267 |
| Laboratory Certification and Maintenance | 176 | 7,006 | 5.028 |
| Laboratory Recordkeeping | 76 | 1 | 250 |

Estimated Total Annual Burden—2,023,428 hours.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated below at the following address:

Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: March 29, 1994.

**James Scanlon,**

*Director, Division of Data Policy, Office of Health Planning and Evaluation.*

[FR Doc. 94-7826 Filed 3-31-94; 8:45 am]

BILLING CODE 4160-17-M

## Substance Abuse and Mental Health Services Administration

RIN 0905-ZA32

## Community Support Program: Mental Health Systems Improvement Demonstration Grants for Consumer and Family Networks

**AGENCY:** Center for Mental Health Services, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

**ACTION:** Notice of availability of funds and request for applications.

**SUMMARY:** The Center for Mental Health Services (CMHS) announces the availability of demonstration grants to State mental health authorities to foster the development of consumer and family networks. The purpose is to enhance the involvement of consumers and family members in the policies, programs, and quality assurance activities related to State mental health plans and the mental health components of health care reform. These grants are offered through the Community Support Program (CSP) Section, Adult Serious Mental Illness Branch, Division of Demonstration Programs, CMHS.

This notice consists of three parts:

*Part I* covers information on the legislative authority and the applicable regulations and policies related to the Community Support Program: Mental Health Systems Improvement Demonstration Grants for Consumer and Family Networks.

*Part II* describes the programmatic goals and project requirements and activities and discusses eligibility, availability of funds, period of support and the receipt date for applications.

*Part III* describes special requirements of the program, the application process, the review and award criteria and lists contacts for additional information.

### Part I—Legislative Authority and Other Applicable Regulations and Policies

—Grants awarded under this RFA are authorized under section 520A of the Public Health Service Act [42 U.S.C. 290bb-32].

—Federal regulations at Title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards.

—Grants must be administered in accordance with the PHS Grants Policy Statement (Rev. April 1, 1994).

—The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.125.

—Interim and final progress reports and financial status reports will be required and specified to awardees in accordance with PHS Grants Policy requirements.

—The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000,[1] a PHS-led national activity for setting priority areas. This RFA, Mental Health Systems Improvement Demonstration Grants for Consumer and Family Networks, is related to priority 6, Mental Health Disorders. Specific subsections include: 6.4, "to reduce the prevalence of mental disorders among adults living in the community to less than 10.7 percent;" 6.6, "to increase to at least 30 percent the proportion of people aged 18 and older with severe, persistent mental disorders who use community support programs;" and 6.7, "to increase to at least 45 percent the proportion of people with major depressive disorders who obtain treatment."

### Part II—Programmatic Goals and Project Requirements and Activities, Eligibility and Application Receipt Date

*Program Goals:* The goals for this round of CSP demonstration grants are to implement and evaluate strategies to:

—Empower consumer and family networks and strengthen their ability to participate in State and local mental health service planning and health care reform policy activities related to improving community-based services for the target population; and

—Foster the financial self-sufficiency of consumer and family organizations (transition from Federal CSP grant funding to other public and private resources) over the term of the Federal grant.

The goals of this program address the HHS Secretary's themes of: fostering independence through empowering of the people served; preventing future problems; and improving services to customers through modern management approaches.

*Target Population:* The target population for CSP grants includes individuals 18 years and older with severe mental illnesses (including, but not limited to, schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders) that substantially interfere with their ability to carry out such primary aspects of daily living as self-care, household management, interpersonal relationships, and work or school.

#### Project Requirements

—States applying must actively involve representatives from the major State consumer and family organizations concerned with system reform in conceptualizing the approach, developing the application, and implementing the project.

—The project must specify project goals and clear, measurable objectives that relate to the two program goals of this RFA.

—It is expected that States will propose activities to support both consumer and family networking efforts. A State proposing to use grant funds to support activities for only families or only consumers must submit adequate justification for the proposal.

—States applying must include an evaluation plan for monitoring project progress, refining strategies, and measuring attainment of project objectives.

*Project Activities:* Proposed project activities to be implemented and evaluated must relate directly to the goals of this RFA. Suggested activities include, but are not limited to: (1) Supporting consumer and family networks; (2) providing training and educational opportunities for consumers and family members; (3) reaching out to members of racial/ethnic minority population groups to increase their participation; (4) using computer technology to build networks and link consumer and family member participants; (5) arranging for needed supports such as travel to key meetings; and (6) implementing procedures and policies to assure input from consumers and families into planning activities.

[1] Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0; or Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325 (Telephone: 202-783-3238).

*Eligibility Requirements:* CMHS is limiting potential applicants for projects under this announcement to State mental health authorities. Multiple organizations are generally involved in implementing these initiatives; thus, centralized State assistance is needed to assure appropriate staff and organizations will be involved and that sufficient resources will be allocated to the project. The State mental health authorities are uniquely qualified to undertake this coordination function, since they work directly with the major consumer and family groups and oversee a wide range of mental health service providers.

Because it is anticipated that the activities supported through these grants will continue beyond the life of the Federal grant support, it is probable that the main source of continuation funding will come from State mental health authorities. Previous program experience has shown that when States are involved in implementing and monitoring the projects, they are more likely to provide continuation funding when the Federal funding period ends.

Because of funding limitations, it has been the policy of CSP to support only one CSP State Mental Health Systems Improvement Demonstration Grant in each State or territory for each round of multi-year grants. Therefore, only States and territories that do not have a current, active CSP Mental Health Systems Improvement grant, or those that have an active CSP grant with a project period that ends on or before August 31, 1994, excluding no-cost extensions, are eligible to apply for these grants. Each State and territory may submit only one application.

*Availability of Funds:* An amount of $3 million will be available for approximately 20 awards under this RFA in FY 1994. Actual funding levels will depend upon appropriated funds. Pending availability of funds and program priorities, CMHS anticipates providing States with CSP Mental Health Systems Improvement Demonstration Grants ending in 1995 the opportunity to apply for grants for consumer and family networks in 1995 under a similar RFA.

Because it is expected that projects will work towards attaining self-sufficiency during the term of the project, this program will offer declining support. Applicants may request budgets of approximately $150,000 for the first year of the project. Federal support for the projects will decrease over the remaining project period as follows: the budget request for the second year should be no more than 75 percent of the first year's budget; the budget request for the third year of the project should be no more than 50 percent of the first year's budget; the budget request for the fourth and final year of the project should be no more than 25 percent of the first's year's budget.

*Period of Support:* Support may be requested for a period of up to four (4) years. Annual awards will be made subject to continued availability of funds and evidence of progress achieved.

*Application Receipt and Review Schedule:* The schedule for receipt and review of applications under this announcement is:

| Receipt date | IRG review | Council review | Start date |
|---|---|---|---|
| June 10, 1994. | July 1994 | September 1994. | September 1994. |

*Consequences of Late Submission:* Applications received after the above receipt date will not be accepted and will be returned to the applicant without review. The DRG system requires that applications must be received by the published application receipt date. However, an application received after the deadline may be acceptable if it carries a legible proof-of-mailing date assigned by the carrier and the proof-of-mailing date is not later than one week prior to the deadline date. Private metered postmarks are not acceptable as proof of timely mailing. If the receipt date falls on a weekend, it will be extended to the following Monday; if the date falls on a national holiday, it will be extended to the following work day.

**Part III—Special Requirements, Review/Award Criteria and Contacts for Additional Information**

*Coordination with Other Federal/Non-Federal Programs:* Applicants seeking support under this announcement are encouraged to coordinate with other programs. Program coordination and integration help to better serve the multiple needs of the client population, to maximize the impact of available resources, and to eliminate duplication of services. Applicants should identify the coordinating organizations by name and address and describe the process to be used for coordinating efforts. Letters of commitment specifying the kind and level of support from organizations (both Federal and non-Federal) which have agreed to work with the applicant should be appended to an application. A listing of Federal programs with which applicants may find coordination productive is included in the application kit.

*Intergovernmental Review (E.O. 12372):* Applications submitted in response to this announcement are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through HHS regulations at 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of and comment on applications for Federal financial assistance. Applicants (other than federally recognized Indian tribal governments) should contact the State's Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instruction on the State applicable procedures. A current SPOC listing is included in the application kit. The SPOC should send any State process recommendations to the following address: Barbara J. Silver, Ph.D., Acting Director, Office of Evaluation, Extramural Policy & Review, Center for Mental Health Services, 5600 Fishers Lane, room 18C–07, Rockville, Maryland 20857, ATTN: SPOC.

The due date for State process recommendations is no later than 60 days after the deadline date for the receipt of applications. The CMHS does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

*Public Health System Reporting Requirements:* This program is not subject to the Public Health System Reporting Requirements.

*Evaluation:* The applicant must include in the application an evaluation design to document the results of the project in terms of achievement of the stated program goals (empowering and strengthening consumer and family networks and fostering their financial self-sufficiency) and specific objectives of the project. The evaluation will be used for monitoring progress, refining strategies, and measuring success. The evaluation will also be used to document the experience of the project such that it will add to the understanding of how to develop and expand consumer and family networks and involve them in State and local mental health service planning and health care reform activities.

*Promoting Non-use of Tobacco:* Studies have clearly established that the use of tobacco products increases mortality and morbidity, not only for the primary users of these products but for those in close proximity to the user. Statistics published by the National Cancer Institute indicate that cigarette smoking and chewing of tobacco are responsible for as many as 1,500 deaths

per day in the United States. Recent studies conducted by the Environmental Protection Agency indicate that prolonged exposure to second-hand smoke significantly increases the probability of developing heart and lung disease. Therefore, the Public Health Service (PHS) strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

*Application Procedures:* All applicants must use application form PHS 5161–1 (Rev. 7/92), which contains Standard Form 424 (face page). The following information should be typed in Item 10 on the face page of the application form: Consumer and Family Networks; No. SM 94–03. Grant application kits (including form PHS 5161–1 with Standard Form 424, complete application procedures, and accompanying guidance materials for the narrative approved under OMB No. 0937–0189) may be obtained from: Ms. Carole Edison, Grants Management Officer, Center for Mental Health Services, 5600 Fishers Lane, room 15–81, Rockville, Maryland 20857, (301) 443–4456.

Applicants must submit: (1) An original copy signed by the authorized official of the applicant organization, with the appropriate appendices; and (2) two additional, legible copies of the application and all appendices to the following address: Center for Mental Health Services Programs, Division of Research Grants, NIH, Westwood Building, room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892*.

*If an overnight carrier or express mail is used, the Zip Code is 20816.

*Review Process:* Applications submitted in response to this RFA will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures for grants.

*Review Criteria:* The points noted in the parentheses for each criterion indicate the maximum number of points the reviewers may assign to that criterion. These points will be used to calculate a raw score for each application. The raw score will be converted to the official priority score.

**Technical Merit**

*1. Significance of the Project (30 points)*

- Potential significance of the proposed project.
- Appropriateness of the proposed project to the goals of the announcement.
- Degree of consumer and family participation in project development and proposed implementation.

*2. Adequacy and Appropriateness of Project Plans (30 points)*

- Rationale provided to show that the proposed approach is likely to work.
- Adequacy and feasibility of the overall plan of action for the entire project.
- Comprehensiveness and feasibility of the first year detailed project implementation plan.
- Adequacy and appropriateness in terms of the proposed staffing and resources.
- Evidence of commitment of the State to provide ongoing financial support for the project.

*3. Adequacy and Appropriateness of Evaluation Plans (20 points)*

- Appropriateness of the proposed evaluation design, including specification of goals and measurable objectives.
- Adequacy of the proposed plan to implement the evaluation.
- Degree of commitment of the State to assuring a quality evaluation of the proposed project.

*4. Appropriateness of Staffing, Project Organization, and Resources (20 points)*

- Qualifications and experience of the project director and other key personnel.
- Adequacy of available resources (e.g., facilities, equipment).
- Capability and experience of the applicant organization with similar projects.
- Adequacy of support for the project from other relevant organizations.
- Appropriateness of proposed budget for each of the requested years. (The committee may recommend either increases or decreases in the budget based on their review of the application or on the adequacy of the budget justification.)

*Award Decision Criteria:* Applications recommended for approval by the IRG and the appropriate advisory council will be considered for funding on the basis of overall technical merit as determined through the review process. Other award criteria will include:

—Availability of funds.
—Need for support.
—Rural distribution (15 percent of appropriated funds will be made available to projects in rural areas).
—Geographical distribution throughout the United States.

*Administrative Costs:* Section 520A(d) of the Public Health Service Act specifies that a grant may not be made unless the applicant agrees that not more than 10 percent of the grant will be expended for administrative expenses. This is separate from indirect costs and generally includes expenses such as accounting and other grant administration costs.

**Contacts for Additional Information**

*Questions concerning program issues may be directed to:* Ms. Peggy Clark, Ms. Risa Fox, or Mr. Buddy Ruiz, Project Officers, or Ms. Jacqueline Parrish, Acting CSP Section Chief: Community Support Program Section, Division of Demonstration Programs, Center for Mental Health Services, 5600 Fishers Lane, room 11C–22, Rockville, MD 20857, (301) 443–3653.

*Questions regarding grants management issues may be directed to:* Ms. Carole Edison, Grants Management Officer, Center for Mental Health Services, 5600 Fishers Lane, room 15–81, Rockville, Maryland 20857, (301) 443–4456.

Dated: March 27, 1994.

**Richard Kopanda,**

*Acting Executive Officer, SAMHSA.*

[FR Doc. 94–7800 Filed 3–31–94; 8:45 am]

BILLING CODE 4162–20–P

## Center for Substance Abuse Prevention; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the Center for Substance Abuse Prevention (CSAP) National Advisory Council and the Substance Abuse Prevention Conference Review Committee for May 1994.

The first meeting of the CSAP National Advisory Council will focus on familiarizing the Council members with the mission of the Center, their duties as new members of the Council, and the various activities and programs within CSAP including an open discussion of administrative matters, announcements and program developments.

The Substance Abuse Prevention Conference Review Committee will be performing review of applications for Federal assistance; therefore, a portion of this meeting will be closed to the public as determined by the Acting Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. D. Herman, Committee Management Officer, Center for Substance Abuse Prevention, Rockwall II Building, suite 630, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4783).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

*Committee Name:* Center for Substance Abuse Prevention National Advisory Council.
*Meeting Date(s):* May 5–6, 1994.
*Place:* Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.
*Open:* May 5, 1994—9 a.m.–5 p.m., May 6, 1994—8:30 a.m.–4:30 p.m.
*Contact:* Yuth Nimit, Ph.D., Rockwall II Building, suite 630; Telephone: (301) 443–4783.

*Committee Name:* Substance Abuse Prevention Conference Review Committee.
*Meeting Date(s):* May 23–27, 1994.
*Place:* Residence Inn—Bethesda,7335 Wisconsin Avenue, Bethesda, Maryland 20814.
*Open:* May 23, 1994—8:30 a.m.–9:30 a.m.
*Closed:* Otherwise.
*Contact:* Ferdinand W. Hui, Ph.D., Rockwall II Building, suite 630; Telephone: (301) 443–9912.

Dated: March 28, 1994.

**Peggy W. Cockrill,**

*Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 94–7802 Filed 3–31–94; 8:45 am]

BILLING CODE 4162–20–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

**[Docket No. N–94–1917; FR–3350–N–77]**

### Federal Property Suitable as Facilities to Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**ADDRESSES:** For further information, contact Barbara Richards, room 7262. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, the property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Barbara Richards at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Elaine Sims, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 355–3475; (This is not a toll-free number).

**Jacquie M. Lawing,**

*Deputy Assistant Secretary for Economic Development.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 04/01/94**

**Suitable/Available Properties**

*Buildings (by State)*

Alabama

Bldg. 8913, Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219140025
Status: Unutilized
Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914, Fort Rucker
7th Avenue
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219140026
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain's headquarters, off-site use only.

Bldgs. TO3202—TO3203, TO3206—TO3208 TO3211, TO3213, TO3216
Cowboy & Crusader Street
Fort Rucker Co: Dale AL 36362–
Landholding Agency: Army

Property Numbers: 219210001–219210008
Status: Unutilized
Comment: 5310 sq. ft. each, two story wood structure, most recent use—barracks, presence of asbestos, offsite use only.

Bldg. T03214, Fort Rucker
Cowboy & Crusader Streets
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219230001
Status: Unutilized
Comment: 3306 sq. ft., 1-story wood structure, most recent use—storehouse, presence of asbestos, off-site use only.

Bldg. T03215, Fort Rucker
Cowboy & Crusader Streets
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219230002
Status: Unutilized
Comment: 3452 sq. ft., 1-story wood structure, most recent use—storehouse, presence of asbestos, off-site use only.

Bldgs. 3502, 3702–3704, 3707–3708, 3714, 3717, 3803
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Numbers: 219340181, 219340183–219340185, 219340188–219340192
Status: Unutilized
Comment: 5310 sq. ft. ea., 2 story wood frame, needs rehab, presence of asbestos, most recent use—instruction bldgs., off-site use only.

Bldg. 3507
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340182
Status: Unutilized
Comment: 2677 sq. ft., 1 story wood frame, needs rehab, most recent use—instruction bldgs., off-site use only.

Bldgs. 3705–3706
Ft. Rucker Co: Dale AL 36392–5138
Landholding Agency: Army
Property Numbers: 219340186–219340187
Status: Unutilized
Comment: 2975 sq. ft. ea., 1 story wood frame, needs rehab, most recent use—general purpose, off-site use only.

Bldg. 3822
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340193
Status: Unutilized
Comment: 2677 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—admin/supply, off-site use only.

Arizona

Bldgs. 70117–70120
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Numbers: 219120306–219120309
Status: Excess
Comment: 3434 sq. ft. each, 1 story wood structures, presence of asbestos, most recent use—general instructional.

Bldg. 70225—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120310
Status: Excess
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83006—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120311
Status: Excess
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83007—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120312
Status: Excess
Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83008—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120313
Status: Excess
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83015—Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219120314
Status: Excess
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 81001
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240720
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.

Bldg. 81017, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240721
Status: Unutilized
Comment: 2269 sq. ft., 1 story wood frame, possible asbestos, most recent use—classroom, scheduled to become vacant in 6 months, off-site use only.

Bldg. 81020, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240722
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, most recent use—administrative, scheduled to become vacant in 6 months, off-site use only.

Bldg. 67204, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219240723
Status: Unutilized
Comment: 4332 sq. ft., 2 story wood frame, possible asbestos, most recent use—administration, off-site use only.

Bldg. 81010, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240724
Status: Unutilized
Comment: 1955 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 81013, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240725
Status: Unutilized
Comment: 1955 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 81024
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240726
Status: Unutilized
Comment: 1265 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 81025
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240727
Status: Unutilized
Comment: 1265 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 66151
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240728
Status: Unutilized
Comment: 4194 sq. ft., 2 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.

Bldg. 72219
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240729
Status: Unutilized
Comment: 2730 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.

Bldg. 72220
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240730
Status: Unutilized
Comment: 2879 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.

Bldg. 72221
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240731
Status: Unutilized
Comment: 3736 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.

Bldg. 85007
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240732
Status: Unutilized
Comment: 4385 sq. ft., 1 story wood frame, possible asbestos, most recent use—barracks, scheduled to become vacant in 6 months, off-site use only.

Bldg. 67108
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240733
Status: Unutilized
Comment: 2403 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 70226
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240734
Status: Unutilized
Comment: 1868 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 71116
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240735
Status: Unutilized
Comment: 3470 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 71215
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240736
Status: Unutilized
Comment: 4854 sq. ft., 1 story wood frame, possible asbestos, most recent use—classrooms, scheduled to become vacant in 6 months, off-site use only.

Bldg. 70110
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240739
Status: Unutilized
Comment: 2675 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70111
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240740
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70113
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240741
Status: Unutilized
Comment: 2800 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70114
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240742
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70115
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240743
Status: Unutilized
Comment: 2544 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70123
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240744
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70124
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240745
Status: Unutilized
Comment: 3298 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70126
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240746
Status: Unutilized
Comment: 3343 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70210
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240747
Status: Unutilized
Comment: 3258 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70211
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240748
Status: Unutilized
Comment: 2966 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70221
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240749
Status: Unutilized
Comment: 2526 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 70222
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240750
Status: Unutilized
Comment: 1627 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 71214
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240751
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 82013
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240752
Status: Unutilized
Comment: 2193 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 90327
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635
Landholding Agency: Army
Property Number: 219240753
Status: Unutilized
Comment: 279 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—offices, off-site use only.

Bldg. 71213
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240754
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 82007
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240755
Status: Unutilized
Comment: 4386 sq. ft., 2 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 82009
Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219240756

Status: Unutilized
Comment: 2444 sq. ft., 2 story wood frame, possible asbestos, scheduled to become vacant in 6 months, most recent use—storehouse, off-site use only.

Bldg. 70216, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310287
Status: Excess
Comment: 3725 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70215, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310288
Status: Excess
Comment: 3706 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70214, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310289
Status: Excess
Comment: 3142 sq. ft., 1-story wood structure, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70212, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310290
Status: Excess
Comment: 3534 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70220, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310291
Status: Excess
Comment: 1249 sq. ft., 1-story wood, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 70218, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310292
Status: Excess
Comment: 3475 sq. ft., 1-story wood, presence of asbestos, most recent use—classroom, off-site use only.

Bldg. 70217, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310293
Status: Excess
Comment: 304 sq. ft., 1-story concrete block, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 80010, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310294
Status: Excess
Comment: 2318 sq. ft., 1-story wood, presence of asbestos, most recent use—admin.

Bldg. 84103, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310296
Status: Excess
Comment: 984 sq. ft., 1-story, presence of asbestos and lead paint, most recent use—admin.

Bldg. 67101, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310297
Status: Excess
Comment: 2216 sq. ft., 1-story wood, presence of asbestos and lead paint, most recent use—classroom.

Bldg. 30012, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. 90328, Fort Huachuca
Sierra Vista, AZ, Cochise, Zip: 85635–
Landholding Agency: Army
Property Number: 219310299
Status: Excess
Comment: 144 sq. ft., 1-story wood, most recent use—storage.

Bldg. S–120
Yuma Proving Ground
Yuma Co: Yuma/LaPaz AZ 85365–9104
Landholding Agency: Army
Property Number: 219320202
Status: Underutilized
Comment: 6845 sq. ft., 1 story wood frame, presence of asbestos, most recent use—bowling cener.

Bldg. 67221
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635
Landholding Agency: Army
Property Number: 219330235
Status: Unutilized
Comment: 1068 sq. ft., 1 story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 83102
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635
Landholding Agency: Army
Property Number: 219330236
Status: Unutilized
Comment: 984 sq. ft., 1 story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 84010
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635
Landholding Agency: Army
Property Number: 219330237
Status: Unutilized
Comment: 2147 sq. ft., 1 story wood, presence of asbestos, most recent use—office, off-site use only.

Bldg. 82008
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635
Landholding Agency: Army
Property Number: 219330238
Status: Unutilized
Comment: 2193 sq. ft., 2 story wood, presence of asbestos, most recent use—barracks, off-site use only.

Bldg. S–1005
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 219340198
Status: Unutilized
Comment: 176 sq. ft., 1 story, cold storage bldgs., need repairs, off-site use only.

Colorado

Bldg. T–3449
Fort Carson
Colorado Springs, CO, El Paso, Zip: 80913-
Landholding Agency: Army
Property Number: 219320205
Status: Unutilized
Comment: 7528 sq. ft., 1 story wood frame, needs rehab, off-site removal only, most recent use—storage.

Bldg. T–6010
Fort Carson
Colorado Springs, CO, El Paso, Zip: 80913-
Landholding Agency: Army
Property Number: 219320206
Status: Unutilized
Comment: 2830 sq. ft., 1 story wood frame, needs rehab, off-site removal only, most recent use—storage.

Georgia

Bldgs. 5390, 5392, 5391
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Numbers: 219010137, 219010151–219010152
Status: Unutilized
Comment: 2432 sq. ft. ea; most recent use—dining room; needs rehab.

Bldg. 5362
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.

Bldg. 4605
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219011493
Status: Unutilized
Comment: 915 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4487
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219011681
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4319
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219011683
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldg. 3400
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219011694
Status: Unutilized

Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285
Fort Benning, GA, Muscogee, Zip: 31905-
Landholding Agency: Army
Property Number: 219011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092
Fort Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219011709
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflamable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089
Fort Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219011710
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Bldgs. 1235, 1236
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Numbers: 219014887–219014888
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldg. 1251
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219014889
Status: Unutilized
Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 2591
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219014906
Status: Unutilized
Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldg. 4491
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219014916
Status: Unutilized
Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4633
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219014919
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4649
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219014922
Status: Unutilized
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 1234
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120254
Status: Unutilized
Comment: 16148 sq. ft., 2 story, most recent use—officer's club, needs rehab

Bldg. 2150
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120258
Status: Unutilized
Comment: 3909 sq. ft., 1 story, needs rehab, most recent use—general inst. bldg.

Bldg. 2409
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120263
Status: Unutilized
Comment: 9348 sq. ft., 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2548
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120264
Status: Unutilized
Comment: 2337 sq. ft., 1 story, needs rehab, most recent use—clinic w/o beds.

Bldg. 2590
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120265
Status: Unutilized
Comment: 3132 sq. ft., 1 story, needs rehab, most recent use—vehicle maintenance shop.

Bldg. 3828
Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219120266
Status: Unutilized
Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse.

Bldgs. 3086, 3089, 3092, 2601
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Numbers: 219220688–219220690, 219220784
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story, most recent use—barracks. needs major rehab, off-site removal only.

Bldg. 1252, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 1678, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219220697
Status: Unutilized
Comment: 9342 sq. ft.; 1 story; most recent use—storehouse; needs major rehab, off-site removal only.

Bldg. 1733, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220698
Status: Unutilized
Comment: 9375 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3083, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220699
Status: Unutilized
Comment: 1372 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 3856, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220703
Status: Unutilized
Comment: 4111 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4881, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only.

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, needs repair, off-site removal only.

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldgs. 3085, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220715
Status: Unutilized
Comment: 2253 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only.

Bldg. 2537, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220726
Status: Unutilized
Comment: 820 sq. ft., 1 story, most recent use—storage, needs major rehab, off-site removal only.

Bldgs. 4882, 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220727–219220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, needs repair, off-site removal only.

Bldgs. 1230, 1231 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905

Landholding Agency: Army
Property Numbers: 219220729–219220730
Status: Unutilized
Comment: 4386 sq. ft. ea., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 5396 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219220734
Status: Unutilized
Comment: 10944 sq. ft., 1 story, most recent use—general instruction bldg., needs major rehab, off-site removal only.

Bldg. 247, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Number: 219220735
Status: Unutilized
Comment: 1144 sq. ft., 1 story, most recent use—offices, needs major rehab, off-site removal only.

Bldgs. 4977, 4978 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905
Landholding Agency: Army
Property Numbers: 219220736–219220737
Status: Unutilized
Comment: 192 sq. ft. ea., 1 story, most recent use—offices, need repairs, off-site removal only.

Bldg. 1240, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220741
Status: Unutilized
Comment: 1197 sq. ft., 1 story, most recent use—recreation, needs major rehab, off-site removal only.

Bldg. 4944, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only.

Bldg. 4960, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 4969, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220753
Status: Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only.

Bldg. 1724, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220754
Status: Unutilized
Comment: 7873 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1758, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220755
Status: Unutilized
Comment: 7817 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1680, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220756
Status: Unutilized
Comment: 9243 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 1682, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220757
Status: Unutilized
Comment: 9250 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldg. 3817, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220758
Status: Unutilized
Comment: 4000 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only.

Bldgs. 4884, 4964, 4966 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219220762–219220764
Status: Unutilized
Comment: 2000 sq. ft. ea., 1 story, most recent use—headquarters bldgs., need repairs, off-site removal only.

Bldg. 4679, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220767
Status: Unutilized
Comment: 8657 sq. ft., 1 story, most recent use—supply bldg., needs major rehab, off-site removal only.

Bldg. 4883, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220768
Status: Unutilized
Comment: 2600 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only.

Bldg. 4965, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., need repairs, off-site removal only.

Bldg. 2513, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220770
Status: Unutilized
Comment: 9483 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2526, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220771
Status: Unutilized
Comment: 11855 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only.

Bldg. 2589, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220772
Status: Unutilized
Comment: 146 sq. ft., 1 story, most recent use—training bldg., needs major rehab, off-site removal only.

Bldg. 4976, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220778
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—gas station, need repairs, off-site removal only.

Bldg. 4945, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only.

Bldg. 4979, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, need repairs, off-site removal only.

Bldg. 4627, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219220786
Status: Unutilized
Comment: 1676 sq. ft., 1 story, most recent use—sentry station, needs major rehab, off-site removal only.

Bldgs. 4114, 4117–4118, 4125–4126, 4129–4130, 4137–4138, 4140 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310407–219310416
Status: Unutilized
Comment: 4425 sq. ft. ea., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldgs. 4002, 4004, 4008–4010, 4012, 4015, 4020, 4106, 4115–4116, 4127–4128, 4139, 4149–4150 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310417–219310432
Status: Unutilized
Comment: 4720 sq. ft. ea., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldg. 4017, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310435
Status: Unutilized
Comment: 7700 sq. ft., 2-story, needs rehab, most recent use—barracks, off-site use only.

Bldgs. 4112, 4119, 4124, 4141, 4136, 4131 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army

Property Numbers: 219310436–219310441
Status: Unutilized
Comment: 1144 sq. ft. ea., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4108, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310442
Status: Unutilized
Comment: 1171 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 1835, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310443
Status: Unutilized
Comment: 1712 sq. ft., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldgs. 4013, 4007 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310444
Status: Unutilized
Comment: 1884 sq. ft. ea., 1-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 4107, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310446
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—day room, off-site use only.

Bldg. 3072, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310447
Status: Unutilized
Comment: 479 sq. ft., 1-story, needs rehab, most recent use—hdqtrs. bldg., off-site use only.

Bldgs. 4001, 4103 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310448–219310449
Status: Unutilized
Comment: 1635 sq. ft. ea., 1-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 3004, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310450
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldgs. 4019, 4018, 3003, 3002 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310451–219310454
Status: Unutilized
Comment: 3270 sq. ft., 2-story, needs rehab, most recent use—hdqtrs bldg., off-site use only.

Bldg. 4109, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310455
Status: Unutilized
Comment: 2253 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4014, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310456
Status: Unutilized
Comment: 2794 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4006, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310457
Status: Unutilized
Comment: 3023 sq. ft., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldgs. 4135, 4123, 4111 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310458–219310460
Status: Unutilized
Comment: 3755 sq. ft. ea., 1-story, needs rehab, most recent use—dining facility, off-site use only.

Bldg. 4023, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.

Bldg. 4024, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only.

Bldg. 4040, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310463
Status: Unutilized
Comment: 1815 sq. ft., 1-story, needs rehab, most recent use—admin., off-site use only.

Bldg. 4026, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310464
Status: Unutilized
Comment: 2330 sq. ft., 1-story, needs rehab, most recent use—admin., off-site use only.

Bldg. 4067, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310465
Status: Unutilized
Comment: 4406 sq. ft., 1-story, needs rehab, most recent use—admin., off-site use only.

Bldg. 4025, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310466
Status: Unutilized
Comment: 4720 sq. ft., 2-story, needs rehab, most recent use—admin., off-site use only.

Bldgs. 4110, 4122, 4134 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310467–219310469
Status: Unutilized
Comment: 1017 sq. ft. ea., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4021, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310470
Status: Unutilized
Comment: 1416 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 2501, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310471
Status: Unutilized
Comment: 4073 sq. ft., 1-story, needs rehab, most recent use—storehouse, off-site use only.

Bldg. 4113, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310473
Status: Unutilized
Comment: 4425 sq. ft., 2-story, needs rehab, most recent use—storage, off-site use only.

Bldg. 10439, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310474
Status: Unutilized
Comment: 1010 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10304, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310475
Status: Unutilized
Comment: 1040 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10847, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310476
Status: Unutilized
Comment: 1056 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 10768, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310477
Status: Unutilized
Comment: 1230 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 2683, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310478
Status: Unutilized
Comment: 1816 sq. ft., 1-story, needs rehab, most recent use—scout bldg., off-site use only.

Bldg. 2504, Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310479
Status: Unutilized

Comment: 729 sq. ft., 1-story, needs rehab, most recent use—snack bar, off-site use only.

Bldg. 2422, Fort Benning
I25Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219310484
Status: Unutilized
Comment: 3328 sq. ft., 1-story, needs rehab, most recent use—fire station, off-site use only.

Bldgs. 4121, 4133, 4143 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310487–219310489
Status: Unutilized
Comment: 1017 sq. ft. ea., 1-story, needs rehab, most recent use—arms bldgs., off-site use only.

Bldgs. 4105, 4005 Fort Benning
Ft. Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219310490–219310491
Status: Unutilized
Comment: 1416 sq. ft. ea., 1-story, needs rehab, most recent use—arms bldgs., off-site use only.

Bldgs. 13503, 14502
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320209–219320210
Status: Unutilized
Comment: 7036 sq. ft., 2 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—residential.

Bldg. 481
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320211
Status: Unutilized
Comment: 1325 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—offices.

Bldg. 10417
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320212
Status: Unutilized
Comment: 2668 sq. ft., 1 story wood frame, presence of asbestos, need repairs, off-site use only, most recent use—offices.

Bldg. 10502
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320213
Status: Unutilized
Comment: 1580 sq. ft., 1 story wood frame, presence of asbestos, need repairs, off-site use only, most recent use—offices.

Bldg. 10503
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320214
Status: Unutilized
Comment: 2516 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—offices.

Bldg. 10602
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320215
Status: Unutilized
Comment: 2000 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—offices.

Bldg. 14503
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320216
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, most recent use—offices.

Bldg. 25304
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320223
Status: Unutilized
Comment: 2788 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, most recent use—office/storage.

Bldg. 26306
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320225
Status: Unutilized
Comment: 1272 sq. ft., 1 story wood frame, possible asbestos, need repairs, off-site use only, most recent use—storage.

Bldg. 29503
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320226
Status: Unutilized
Comment: 2456 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, most recent use—offices.

Bldg. 33406
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320227
Status: Unutilized
Comment: 3456 sq. ft., 1 story wood frame, presence of asbestos, needs roof repairs, off-site use only, most recent use—offices.

Bldg. 33436
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320228
Status: Unutilized
Comment: 2632 sq. ft., 1 story wood frame, presence of asbestos, need repairs, off-site use only, most recent use—offices.

Bldg. 33438
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320229
Status: Unutilized
Comment: 2668 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—storage.

Bldg. 39502
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320230
Status: Unutilized
Comment: 1316 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—offices.

Bldg. 45308
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320231
Status: Unutilized
Comment: 6044 sq. ft., 1 story wood frame, presence of asbestos, needs rehab, off-site use only, most recent use—community center.

Bldgs. 26301, 27301
Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219320234–219320235
Status: Unutilized
Comment: 2788 sq. ft., 1 story wood frame, presence of asbestos, needs roof repairs, off-site use only, most recent use—storage.

Bldgs. 354–356, 376 Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330259–219330262
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 377, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330263
Status: Unutilized
Comment: 4768 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 13501, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330264
Status: Unutilized
Comment: 2516 sq. ft., 1-story wood, needs rehab, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 18704, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330265
Status: Unutilized
Comment: 4524 sq. ft., 2-story wood, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 18717, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330266
Status: Unutilized
Comment: 2468 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 19601, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330268
Status: Unutilized
Comment: 2132 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 19602, Fort Gordon

Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330269
Status: Unutilized
Comment: 1555 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 24501, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330270
Status: Unutilized
Comment: 3580 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 25103, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330271
Status: Unutilized
Comment: 2100 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.

Bldg. 25105, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330272
Status: Unutilized
Comment: 1025 sq. ft., 1-story wood, needs rehab, most recent use—offices, off-site use only.

Bldg. 25503, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330273
Status: Unutilized
Comment: 6816 sq. ft., 1-story wood, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 31504, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330274
Status: Unutilized
Comment: 7036 sq. ft., 2-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 33415, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330275
Status: Unutilized
Comment: 2036 sq. ft., 1-story wood, needs rehab, presence of asbestos, most recent use—offices, off-site use only.

Bldg. 34502, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330276
Status: Unutilized
Comment: 7036 sq. ft., 2-story wood, needs rehab, most recent use—offices, off-site use only.

Bldg. 35503, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330277
Status: Unutilized
Comment: 2500 sq. ft., 1-story wood, needs rehab, most recent use offices, off-site use only.

Bldg. 37505, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330278
Status: Unutilized
Comment: 17370 sq. ft., 2-story wood, needs rehab, possible asbestos, most recent use—offices, off-site use only.

Bldg. 39503, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330279
Status: Unutilized
Comment: 1316 sq. ft., 1-story wood, needs rehab, possible asbestos, most recent use—offices, off-site use only.

Bldg. 18707, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330280
Status: Unutilized
Comment: 2468 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.

Bldg. 18708, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330281
Status: Unutilized
Comment: 3772 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.

Bldg. 18718, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330282
Status: Unutilized
Comment: 2468 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.

Bldg. 18720, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330283
Status: Unutilized
Comment: 2632 sq. ft., 1-story wood, presence of asbestos, most recent use—classrooms, off-site use only.

Bldgs. 18721–18724, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330284–219330287
Status: Unutilized
Comment: 4524 sq. ft., 2-story wood, presence of asbestos, most recent use—classrooms, off-site use only.

Bldg. 12712, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330288
Status: Unutilized
Comment: 15500 sq. ft., 1-story concrete block, needs rehab, presence of asbestos, most recent use—gymnasium, off-site use only.

Bldgs. 332–333, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330289–219330290
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.

Bldg. 334, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330291
Status: Unutilized
Comment: 4279 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—medical admin., off-site use only.

Bldg. 335, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330292
Status: Unutilized
Comment: 4300 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only.

Bldg. 353, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330293
Status: Unutilized
Comment: 5157 sq. ft., 1-story wood, presence of asbestos, most recent use—laboratory, off-site use only.

Bldg. 352, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330294
Status: Unutilized
Comment: 560 sq. ft., 1-story metal, presence of asbestos, most recent use—equip. storage, off-site use only.

Bldg. 18703, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330295
Status: Unutilized
Comment: 4524 sq. ft., 2-story wood, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 18705, Fort Gordon
Ft. Gordon, GA, Richmond, Zip: 30905–
Landholding Agency: Army
Property Number: 219330296
Status: Unutilized
Comment: 2632 sq. ft., 1-story wood, presence of asbestos, off-site use only.

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818
Location: Approx. 600 feet from Main Gate on Aliamanu Drive
Landholding Agency: Army
Property Number: 219030324
Status: Unutilized
Comment: 45216 sq. ft. underground tunnel complex, pres. of asbestos, clean-up required of contamination, use of respirator required by those entering property, use limitations.

Bldg. 302
Fort Shafter
Honolulu Co: Honolulu HI 96818
Landholding Agency: Army
Property Number: 219320236
Status: Unutilized
Comment: 39 sq. ft., most recent use—sentry station, off-site use only.

Indiana

Bldg. 703–1C
Indiana Army Ammunition Plant
Charlestown Co: Clark IN
Location: Gate 22 off Highway 22
Landholding Agency: Army

Property Number: 219013761
Status: Underutilized
Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)
Indiana Army Ammunition Plant
Charlestown Co: Clark IN
Location: East of State Highway 62 at Gate 3
Landholding Agency: Army
Property Number: 219013762
Status: Underutilized
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)
Indiana Army Ammunition Plant
Charlestown Co: Clark IN
Location: South end of 3rd Street, East of Highway 62 at entrance gate.
Landholding Agency: Army
Property Number: 219013763
Status: Underutilized
Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 2542
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240717
Status: Unutilized
Comment: 1954 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use heating facility.

Bldg. 2531
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240718
Status: Unutilized
Comment: 119746 sq. ft., 1 story concrete block, secured area w/alternate access, asbestos, most recent use—storage.

Bldgs. 7215, 7216
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219330297
Status: Unutilized
Comment: roadside shelters, no utilities, located on Indiana State Highway Right of Way.

Kansas

Bldg. T–2549, Fort Riley
Ft. Riley, KS, Geary, Zip: 66442–
Landholding Agency: Army
Property Number: 219310251
Status: Unutilized
Comment: 3082 sq. ft., 1-story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Maryland

Bldgs. E5878, E5879
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Numbers: 219012652, 219012653
Status: Unutilized
Comment: 213 sq. ft. each; structural deficiencies; possible abestos; and contamination.

Bldg. 10302
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012666
Status: Unutilized
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.

Bldg. E5975
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012677
Status: Unutilized
Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/ chemicals and explosives; potential use—storage.

Bldg. 6687
Fort George G. Meade
Mapes and Zimborski Roads
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219220446
Status: Unutilized
Comment: 1150 sq. ft., presence of asbestos, wood frame, most recent use—veterinarian clinic, off-site removal only.

Bldgs. 303–308, 323–328, 333–337
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320293
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story wood frame, possible asbestos, most recent use—barracks/classrooms, fair to good condition, off-site use only.

Bldg. 309
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320294
Status: Unutilized
Comment: 2324 sq. ft., 1 story wood frame, possible asbestos, fair to good condition, off-site use only.

Bldgs. 312, 319
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320295
Status: Unutilized
Comment: 2594 sq. ft., 1 story wood frame, possible asbestos, most recent use—storage, fair condition, off-site use only.

Bldgs. 313–314, 317–318
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320296
Status: Unutilized
Comment: 1144 sq. ft., 1 story wood frame, possible asbestos, most recent use—storage, fair to good condition, off-site use only.

Bldgs. 302, 329, 332, 339
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320297
Status: Unutilized
Comment: 2208 sq. ft., 1 story wood frame, possible asbestos, most recent use—storage, fair condition, off-site use only.

Bldg. 2239
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320298
Status: Unutilized
Comment: 24528 sq. ft., 1 story concrete, poss. asbestos, most recent use—mess hall, needs rehab, off-site use only.

Bldg. 2175
Aberdeen Proving Ground
Harford County MD 21005–5001
Landholding Agency: Army
Property Number: 219320300
Status: Underutilized
Comment: 2879 sq. ft., 1 story, needs rehab, most recent use—storehouse.

Bldg. 2176
Aberdeen Proving Ground
Harford County MD 21005–5001
Landholding Agency: Army
Property Number: 219320301
Status: Unutilized
Comment: 4425 sq. ft., 1 story, needs rehab, most recent use—admin.

Bldg. 3036
Aberdeen Proving Ground
Harford County MD 21005–5001
Landholding Agency: Army
Property Number: 219320302
Status: Unutilized
Comment: 11016 sq. ft., 1 story, needs rehab, most recent use—gym, presence of asbestos.

Bldg. E4890
Aberdeen Proving Ground
Harford County MD 21005–5001
Landholding Agency: Army
Property Number: 219330434
Status: Unutilized
Comment: 6250 sq. ft., 1 story, needs rehab, presence of asbestos.

Michigan

Bldg. 300, Arsenal Acres
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Number: 219220448
Status: Unutilized
Comment: 52 sq. ft., sentry station, secured area w/alternate access.

Bldg. 301, Arsenal Acres
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Number: 219220449
Status: Unutilized
Comment: 3125 sq. ft., 2-story colonial style home, secured area w/alternate access.

Bldgs. 302, 303
24140 Mound Road
Warren, MI 48091
Landholding Agency: Army
Property Numbers: 219220450–219220451
Status: Unutilized
Comment: 2619 sq. ft. ea., 2-story colonial style home, secured area w/alternate access.

Bldgs. 304, 305
24140 Mound Road
Warren, MI 48091

Landholding Agency: Army
Property Numbers: 219220452–219220787
Status: Unutilized
Comment: 2443 sq. ft. ea., 2-story colonial style home, secured area w/alternate access.

Mississippi

Bldg. VB201
Vicksburg Reserve Center
Vicksburg MS 39180–0055
Landholding Agency: Army
Property Number: 219330308
Status: Unutilized
Comment: 15444 sq. ft., 1 story metal frame, most recent use—army reserve center, off-site use only.

Bldg. VB202
Vicksburg Reserve Center
Vicksburg MS 39180–0055
Landholding Agency: Army
Property Number: 219330309
Status: Unutilized
Comment: 800 sq. ft., 1 story metal frame, most recent use—admin., off-site use only.

Bldg. VB213
Vicksburg Reserve Center
Vicksburg MS 39180–0055
Landholding Agency: Army
Property Number: 219330310
Status: Unutilized
Comment: 180 sq. ft., 1 story concrete block, most recent use—storehouse, off-site use only.

Missouri

Bldg. T3057
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219220580
Status: Underutilized
Comment: 2650 sq. ft., 1 story wood frame, presence of asbestos, off-site use only, not handicapped accessible, most recent use—admin/general purpose.

Bldg. T2383
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230228
Status: Underutilized
Comment: 9267 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—general purpose.

Bldg. T1376
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230237
Landholding Agency: Army
Status: Underutilized
Comment: 1296 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—hdqtrs building.

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230260
Status: Underutilized
Comment: 18270 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldg. T1311
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230261
Status: Underutilized
Comment: 2740 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldg. T1333
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 219230263
Status: Underutilized
Comment: 1144 sq. ft., 1 story, presence of asbestos, off-site use only, most recent use—storehouse.

Bldgs. T1270, T1329
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Numbers: 219320307, 219330300
Status: Unutilized
Comment: 1296 sq. ft., 1 story, most recent use—admin., possible asbestos, off-site use only.

Bldg. T427
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330299
Status: Underutilized
Comment:
10245 sq. ft., 1 story, presence of asbestos, most recent use—post office, off-site use only.

Bldg. T1688
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330301
Status: Unutilized
Comment: 4720 sq. ft., 2 story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. T2206
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330302
Status: Unutilized
Comment: 1440 sq. ft., 1 story, presence of asbestos and contamination, most recent use—storage, off-site use only.

Bldg. T2209
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330303
Status: Unutilized
Comment: 288 sq. ft., 1 story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. T2357
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330304
Status: Underutilized
Comment: 1296 sq. ft., 1 story, presence of asbestos, most recent use—hdqtrs bldg., off-site use only.

Bldgs. T2360, T2364
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330305
Status: Underutilized
Comment: 1144 sq. ft. each, 1 story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. T2368
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330306
Status: Underutilized
Comment: 3663 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T3005
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330307
Status: Underutilized
Comment: 2220 sq. ft., 1 story, presence of asbestos, most recent use—motor repair shop, off-site use only.

Bldgs. T1338, T413, T1699, T1697
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Property Numbers: 219340207–219340208, 219340210, 219340216
Status: Unutilized
Comment: 4720 sq. ft. ea., 2 story wood frame, no handicap fixtures, off-site use only, most recent use—enlisted barracks or administration.

Bldg. T465
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340209
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood frame, no handicap fixtures, lead based paint, possible asbestos, off-site use only, most recent use—administration.

Bldg. T2110
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340211
Status: Unutilized
Comment: 1600 sq. ft., 1 story wood frame, no handicap fixtures, lead based paint, off-site use only, most recent use—administration.

Bldg. T2171
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340212
Status: Unutilized
Comment: 1296 sq. ft., 1 story wood frame, no handicap fixtures, lead based paint, off-site use only, most recent use—.

Bldgs. T1258, T1369, T1478
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Property Numbers: 219340213–219340215
Status: Underutilized
Comment: 2360 sq. ft. ea., 1 story wood frame, no handicap fixtures, possible asbestos, lead based paint, off-site use only, most recent use—warehouses.

Bldg. T2312
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340217
Status: Underutilized
Comment: 1403 sq. ft., 1 story wood frame, lead based paint, no handicap fixtures, off-site use only, most recent use—paint shop.

Bldg. T2370
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 2193402218
Status: Underutilized
Comment: 2284 sq. ft., 1 story wood frame, lead based paint, no handicap fixtures, off-site use only, most recent use—storehouse.

Bldg. T6822
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340219
Status: Underutilized
Comment: 4000 sq. ft., 1 story wood frame, no handicap fixtures, off-site use only, most recent use—storage.

Nebraska

Bldg. RG–1
Cornhusker Army Ammunition Plant
Old Potash Hwy
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210292
Status: Unutilized
Comment: 1080 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG–2
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210293
Status: Unutilized
Comment: 576 sq. ft., 1 story garage, secured area with alternate access.

Bldg. RG–3
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210294
Status: Unutilized
Comment: 936 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG–4
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210295
Status: Unutilized
Comment: 1040 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG–5
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210296
Status: Unutilized
Comment: 490 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG–6
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210297
Status: Unutilized
Comment: 510 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Nevada

Bldgs. 00425–00449
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Numbers: 219011946–219011952, 219011954, 219011956, 219011959, 219011961, 219011964, 219011968, 219011970, 219011974, 219011976–219011978, 219011980, 219011982, 219011984, 219011987, 219011990, 219011994, 219011996
Status: Unutilized
Comment: 1310–1640 sq. ft. each, one floor residential, semi/wood construction, good condition.

New Jersey

Bldg. 421, Fort Monmouth
Ft. Monmouth Co: Monmouth NJ 07703
Landholding Agency: Army
Property Number: 219330435
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—office.

Bldg. 2529, Fort Monmouth
Charles Wood Area
Landholding Agency: Army
Property Number: 219330436
Status: Unutilized
Comment: 4413 sq. ft., 2 story, needs rehab, most recent use—administration.

New Mexico

Bldgs. 108–109, 118–119
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Numbers: 219330327–219330328, 219330330–219330331
Status: Unutilized
Comment: 3561 sq. ft. ea., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 117
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330329
Status: Unutilized
Comment: 1688 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldgs. 148–150
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Numbers: 219330332–219330334
Status: Unutilized
Comment: 3570 sq. ft. ea., 2-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 357
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330335
Status: Unutilized
Comment: 3600 sq. ft., 2-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1758
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330336
Status: Unutilized
Comment: 1620 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 1768
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330337
Status: Unutilized
Comment: 15333 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28281
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330338
Status: Unutilized
Comment: 1856 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 28282
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330339
Status: Unutilized
Comment: 1850 sq. ft., 3-story, needs rehab, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 32980
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330340
Status: Unutilized
Comment: 451 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 34252
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330341
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only.

Bldg. 418
White Sands Missile Range

White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330342
Status: Unutilized
Comment: 3690 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 420
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330343
Status: Unutilized
Comment: 2407 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 890
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330344
Status: Unutilized
Comment: 9011 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1348
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330345
Status: Unutilized
Comment: 720 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1738
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330346
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 1765
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330347
Status: Unutilized
Comment: 600 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 21542
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330348
Status: Unutilized
Comment: 945 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22118
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330349
Status: Unutilized
Comment: 1341 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 22253
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330350
Status: Unutilized
Comment: 216 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 28267
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330351
Status: Unutilized
Comment: 617 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 29195
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330352
Status: Unutilized
Comment: 56 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldgs. 34219, 34221
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Numbers: 219330353–219330354
Status: Unutilized
Comment: 720 sq. ft. ea., 1-story, presence of asbestos, most recent use—storage, off-site use only.

Bldg. 145
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330355
Status: Unutilized
Comment: 2954 sq. ft., 1-story, presence of asbestos, most recent use—chapel, off-site use only.

Bldg. 1754
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330356
Status: Unutilized
Comment: 6974 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 19242
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330357
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 34227
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330358
Status: Unutilized
Comment: 675 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 34244
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330359
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only.

Bldg. 21105
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330360
Status: Unutilized
Comment: 239 sq. ft., presence of asbestos, most recent use—veterinarian facility, off-site use only.

Bldg. 21106
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330361
Status: Unutilized
Comment: 405 sq. ft., 1-story, presence of asbesetos, most recent use—veterinarian facility, off-site use only.

Bldg. 21310
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330362
Status: Unutilized
Comment: 1006 sq. ft., 1-story, presence of asbestos, most recent use—transmitter bldg., off-site use only.

Bldg. 29890
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330363
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—frequency monitoring station, off-site use only.

Bldg. 1868
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330364
Status: Unutilized
Comment: 41 sq. ft., 1-story, presence of asbestos, most recent use—scale house, off-site use only.

Bldg. 528
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330365
Status: Unutilized
Comment: 225 sq. ft., 1-story, presence of asbestos, most recent use—decontamination shelter, off-site use only.

Bldg. 1834
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330366
Status: Unutilized
Comment: 150 sq. ft., 1-story, presence of asbestos, most recent use—animal kennel, off-site use only.

Bldg. 1300
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330367
Status: Unutilized
Comment: 1500 sq. ft., 1-story, presence of asbestos, most recent use—indoor small arms range, off-site use only.

Bldg. 23100
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330368
Status: Unutilized
Comment: 40 sq. ft., 1-story, presence of asbestos, most recent use—sentry station, off-site use only.

Bldg. 29196
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330369
Status: Unutilized
Comment: 38 sq. ft., 1-story, presence of asbestos, most recent use—power plant bldg., off-site use only.

Bldg. 30774
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330370
Status: Unutilized
Comment: 176 sq. ft., 1-story, presence of asbestos, off-site use only.

Bldg. 33136
White Sands Missile Range
White Sands, NM, Dona Ana, Zip: 88002–
Landholding Agency: Army
Property Number: 219330371
Status: Unutilized
Comment: 18 sq. ft., off-site use only.

New York

Bldg. 503
Fort Totten
Ordnance Road
Bayside Co: Queens NY 11357–
Landholding Agency: Army
Property Number: 219012564
Status: Underutilized
Comment: 510 sq ft., 1 floor, most recent use—storage, needs major rehab/no utilities.

Bldg. 323
Fort Totten
Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012567
Status: Underutilized
Comment: 30000 sq ft., 3 floors, most recent use—barracks & mess facility, needs major rehab.

Bldg. 304
Fort Totten
Shore Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012570
Status: Underutilized
Comment: 9610 sq ft., 3 floors, most recent use—hospital, needs major rehab/utilities disconnected.

Bldg. 211
Fort Totten
211 Totten Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012573
Status: Underutilized
Comment: 6329 sq. ft., 3 floors, most recent use—family housing, needs major rehab, utilities disconnected.

Bldg. 332
Fort Totten
Theater Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012578
Status: Underutilized
Comment: 6288 sq. ft., 1 floor, most recent use—theater w/stage, needs major rehab, utilities disconnected.

Bldg. 504
Fort Totten
Ordnance Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012580
Status: Underutilized
Comment: 490 sq. ft., 1 floor, most recent use—storage, no utilities, needs major rehab.

Bldg. 322
Fort Totten
322 Story Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012583
Status: Underutilized
Comment: 30000 sq. ft., 3 floors, most recent use—barracks, mess and administration, utilities disconnected, needs rehab.

Bldg. 326
Fort Totten
326 Pratt Avenue
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012586
Status: Underutilized
Comment: 6000 sq. ft., 2 floors, most recent use—storage, offices and residential, utilities disconnected/needs rehab.

23 Residential Apartment Bldgs
Stewart Gardens, Stewart Army Subpost
Army Wherry Family Housing
New Windsor Co: Orange NY 12553–
Location: Y and Garden Loop Streets
Landholding Agency: Army
Property Number: 219330315
Status: Unutilized
Comment: 2 story family housing, concrete block/wood, needs rehab, off-site use only.

12 Detached Garages
Stewart Gardens, Stewart Army Subpost
Army Wherry Family Housing
New Windsor Co: Orange NY 12553–
Property Number: 219330316
Status: Unutilized
Comment: 1 story garages, concrete block/wood, needs rehab, off-site use only.

30 Storage Sheds
Stewart Gardens, Stewart Army Subpost
Army Wherry Family Housing
New Windsor Co: Orange NY 12553–
Property Number: 219330317
Status: Unutilized
Comment: 1 story aluminum/wood storage sheds, good condition, off-site use only.

Bldg. 1202
Stewart Army Subpost
D Street
New Windsor Co: Orange NY 12553–
Property Number: 219330318
Status: Unutilized
Comment: 1453 sq. ft., 1 story concrete/wood, needs rehab, presence of asbestos, most recent use—office, off-site use only.

Bldgs. 1204, 1206, 1208
Stewart Army Subpost
D Street
New Windsor Co: Orange NY 12553–
Property Numbers: 219330319–219330321
Status: Unutilized
Comment: 4349 sq. ft., 2 story concrete/wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only.

Bldg. 1404
Stewart Army Subpost
Bruenig Road
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219330322
Status: Unutilized
Comment: approx. 8776 sq. ft., 2 story concrete/wood, needs major rehab, presence of asbestos, off-site use only.

Bldg. 2500
Stewart Army Subpost
4th Street
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219330323
Status: Unutilized
Comment: approx. 4350 sq. ft., 2 story concrete/wood/brick veneer, needs major rehab, presence of asbestos, off-site use only.

Bldg. 709
U.S. Military Academy
709 Worth Place
West Point Co: Orange NY 10996
Landholding Agency: Army
Property Number: 219330324
Status: Unutilized
Comment: approx. 1400 sq. ft., 2 story, need repairs, most recent use—storage, off-site use only.

Bldg. 621
U.S. Military Academy
North Athletic Field
West Point Co: Orange NY 10996
Landholding Agency: Army
Property Number: 219330325
Status: Unutilized
Comment: 1478 sq. ft., 1 story, concrete/aluminum, most recent use—storage shed, off-site use only.

Bldg. 623
U.S. Military Academy
North Athletic Field
West Point Co: Orange NY 10996
Landholding Agency: Army
Property Number: 219330326
Status: Unutilized
Comment: 200 sq. ft., 1 story, concrete/aluminum, most recent use—storage shed, off-site use only.

Bldg. 1848
U.S. Military Academy
Lake Frederick Road
Woodbury Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 219330437
Status: Underutilized
Comment: 2866 sq. ft., 2 story, needs major rehab, presence of asbestos and lead based paint, off-site use only, most recent use—storage/offices.

North Carolina

Bldgs. A–4625, A–4628

Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219320308–219320309
Status: Unutilized
Comment: 2794 sq. ft. ea., 1 story, most recent use—mess, need repairs, off-site use only.

Bldg. C–4731
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219320310
Status: Unutilized
Comment: 780 sq. ft., concrete block press box, off-site use only.

Bldg. A–5425
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219330311
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, needs repair, most recent use—storage, off-site use only.

Bldg. O–9710
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219330312
Status: Unutilized
Comment: 974 sq. ft., metal trailer, need repairs, most recent use—living quarters, off-site use only.

Bldg. O–9711
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219330313
Status: Unutilized
Comment: 403 sq. ft., 1 story wood cabin, need repairs, most recent use—living quarters, off-site use only.

Bldg. O–9712
Fort Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219330314
Status: Unutilized
Comment: 730 sq. ft., wood garage, need repairs, off-site use only.

Ohio

Bldg. P–3
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662
Landholding Agency: Army
Property Number: 219320311
Status: Unutilized
Coment: 10752 sq. ft., 1 story brick, most recent use office, possible asbestos.

Bldg. P–4
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662
Landholding Agency: Army
Property Number: 219320312
Status: Unutilized
Comment: 2508 sq. ft., 1 story brick, most recent use—vehicle maintenance shop.

Bldg. P–2
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43420
Landholding Agency: Army
Property Number: 219320314
Status: Unutilized
Comment: 3956 sq. ft., 1 story brick, most recent use—office, possible asbestos.

Bldg. P–3
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43420
Landholding Agency: Army
Property Number: 219320315
Status: Unutilized
Comment: 1259 sq. ft., 1 story brick, most recent use—vehicle maintenance shop, possible asbestos.

Oklahoma

Bldg. T–2545,
Fort Sill
2544 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011255
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors, no operating sanitary facilities; most recent use—barracks.

Bldg. T–2606
Fort Sill
2606 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011273
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T–3507
Fort Sill
3507 Sheridan Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219011315
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel.

Bldg. T–4919
Fort Sill
4919 Post Road
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 219014842
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T–4523
Fort Sill
4523 Wilson Road
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 219014933
Status: Unutilized
Comment: 1639 sq. ft., 1 story wood frame, needs rehab, possible asbestos, most recent use—storage.

Bldg. T–838
Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–2702
Fort Sill
2702 Thomas Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240655
Status: Unutilized
Comment: 5520 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–3311
Fort Sill
3311 Naylor Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240656
Status: Unutilized
Comment: 1468 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—admin.

Bldg. T–954
Fort Sill
954 Quinette Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldg. T–1050, T–1051
Fort Sill
1050 Quinette Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219240660–219240661
Status: Unutilized
Comment: 6240 sq. ft. ea., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks.

Bldgs. T–2703, T–2704
Fort Sill
2703 Thomas Street
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219240667–219240668
Status: Unutilized
Comment: 5520 sq. ft. ea., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2740,
Fort Sill
2740 Miner Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240669
Status: Unutilized
Comment: 8210 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2745
Fort Sill
2745 Miner Road
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219240670
Status: Unutilized
Comment: 8288 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks.

Bldg. T–2633, Fort Sill
2633 Miner Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240672
Status: Unutilized
Comment: 19455 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—enlisted mess.

Bldg. T–2701, Fort Sill
2701 Thomas Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240673
Status: Unutilized

Comment: 5520 sq. ft., 2 story wood frame, needs rehab, offsite use only, most recent use—storage.

Bldg. T–2907, Fort Sill
2907 Marcy Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240674
Status: Unutilized
Comment: 3861 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—storage.

Bldg. T–2928, Fort Sill
2928 Custer Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240675
Status: Unutilized
Comment: 2315 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—storage.

Bldg. T–4050, Fort Sill
4050 Pitman Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240676
Status: Unutilized
Comment: 3177 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—storage.

Bldg. P–3032, Fort Sill
3032 Haskins Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240678
Status: Unutilized
Comment: 101 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—general storehouse.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, offsite use only, most recent use—warehouse.

Bldg. T–260, Fort Sill
260 Corral Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240776
Status: Unutilized
Comment: 4838 sq. ft., 2 story wood frame, off-site use only, possible asbestos, most recent use—administration.

Bldg. T–3641, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320324
Status: Unutilized
Comment: 1255 sq. ft., 1 story wood frame, possible asbestos, off-site use only, needs rehab, most recent use—day room.

Bldg. T–3644, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 2193320327
Status: Unutilized
Comment: 1-story wood frame, possible asbestos, off-site use only.

Bldg. T–4722, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Status: Unutilized
Comment: 13500 sq. ft., 2 story wood frame, possible asbestos, off-site use only, most recent use—band training fac.

Bldg. T–5122, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Status: Unutilized
Comment:

Bldg. P–6220, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320335
Status: Unutilized
Comment: 848 sq. ft., 1 story wood frame, possible asbestos, most recent use—construction bldg., off-site use only.

Bldg. S–6228, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320336
Status: Unutilized
Comment: 352 sq. ft., 1 story wood frame, possible asbestos, most recent use—range house, off-site use only.

Bldg. P–6601, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219320339
Status: Unutilized
Comment: 1606 sq. ft., possible asbestos, most recent use boy scout bldg., off-site use only.

Bldg. P–2610, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330372
Status: Unutilized
Comment: 512 sq. ft., 1 story, possible asbestos, most recent use—classroom, off-site use only.

Bldg. 4722, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330373
Status: Unutilized
Comment: 3375 sq. ft., 2 story, possible asbestos, most recent use—administration, off-site use only.

Bldg. T5015, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330374
Status: Unutilized
Comment: 1412 sq. ft., 1 story wood, possible asbestos, most recent use—administration/supply, off-site use only.

Bldg. T5014, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330375
Status: Unutilized
Comment: 2418 sq. ft., 2 story, possible asbestos, most recent use—barracks, off-site use only.

Bldg. T5017, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330376
Status: Unutilized
Comment: 1176 sq. ft., 1 story, possible asbestos, most recent use—day room, off-site use only.

Bldg. T232, T236 Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Numbers: 219330377–219330378
Status: Unutilized
Comment: 2868 sq. ft. ea., 1 story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T312, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330379
Status: Unutilized
Comment: 1970 sq. ft., 2 story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T1652, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330380
Status: Unutilized
Comment: 1505 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T1665, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330381
Status: Unutilized
Comment: 1305 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2034, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330383
Status: Unutilized
Comment: 401 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2705, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330384
Status: Unutilized
Comment: 1601 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2706, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330385
Status: Unutilized
Comment: 2156 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2707, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330386
Status: Unutilized
Comment: 2148 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2708, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330387
Status: Unutilized
Comment: 2153 sq. ft., 2-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2709, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100

Landholding Agency: Army
Property Number: 219330388
Status: Unutilized
Comment: 2112 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T2713, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330389
Status: Unutilized
Comment: 114 sq. ft., iron/metal bldg., possible asbestos, most recent use—storage, off-site use only.

Bldgs. T2756, T2757, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219330390–219330391
Status: Unutilized
Comment: 5172 sq. ft. ea., 1-story wood, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3026, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330392
Status: Unutilized
Comment: 2454 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3651, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330393
Status: Unutilized
Comment: 2770 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3706, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330394
Status: Unutilized
Comment: 1947 sq. ft., 2-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3710, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330396
Status: Unutilized
Comment: 1176 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3712, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330397
Status: Unutilized
Comment: 1021 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3713, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330398
Status: Unutilized
Comment: 1013 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3714, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330399
Status: Unutilized
Comment: 1159 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T3718, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330400
Status: Unutilized
Comment: 1195 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T4035, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330401
Status: Unutilized
Comment: 867 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T4474, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330402
Status: Unutilized
Comment: 1159 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5011, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330403
Status: Unutilized
Comment: 1556 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5016, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330404
Status: Unutilized
Comment: 2825 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5120, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330405
Status: Unutilized
Comment: 1471 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5123, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330406
Status: Unutilized
Comment: 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5124, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330407
Status: Unutilized
Comment: 1287 sq. ft, 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5125, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330408
Status: Unutilized
Comment: 2101 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5126, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330409
Status: Unutilized
Comment: 1108 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldgs. T5245 thru T5248, T5252, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219330410–219330413, 219330417
Status: Unutilized
Comment: 3081 sq. ft. ea., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5249, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330414
Status: Unutilized
Comment: 2920 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldgs. T5250 thru T5251, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Numbers: 219330415–219330416
Status: Unutilized
Comment: 3257 sq. ft. ea., 1 story, possible asbestos, most recent use—storage, site use only.

Bldg. T5628, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330418
Status: Unutilized
Comment: 2016 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Bldg. T5637, Fort Sill
Lawton, OK, Comanche, Zip: 73503–5100
Landholding Agency: Army
Property Number: 219330419
Status: Unutilized
Comment: 1606 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only.

Texas

Harlingen USARC
1920 East Washington
Harlingen, TX, Cameron, Zip: 78550–
Landholding Agency: Army
Property Number: 219120304
Status: Excess
Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.

Bldg. P–3824, Fort Sam Houston
San Antonio, TX, Bexar, Zip: 78234–5000
Landholding Agency: Army
Property Number: 219220398
Status: Unutilized
Comment: 2232 sq. ft., 1-story concrete structure, within National Landmark Historic District, off-site removal only.

Bldgs. 441–442, Fort Hood
Ft. Hood, TX, Bell, Zip: 76544–
Landholding Agency: Army
Property Numbers: 219320345–219320346
Status: Unutilized

Comment: 6033 sq. ft., 2-story wood frame, most recent use offices, needs rehab, off-site use only.

Bldg. 4168, Fort Hood
Ft. Hood, TX, Bell, Zip: 76544–
Landholding Agency: Army
Property Number: 219320350
Status: Unutilized
Comment: 2100 sq. ft., 1-story steel frame, most recent use—vehicle wash platform, needs rehab, off-site use only.

Bldg. 440, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 219320355
Status: Unutilized
Comment: 1651 sq. ft., 1-story brick, most recent use—education facility, off-site use only.

Bldg. 1164, Fort Bliss
El Paso, TX, El Paso, Zip: 79916–
Landholding Agency: Army
Property Number: 219330420
Status: Unutilized
Comment: 2054 net sq. ft., 1 story wood, most recent use—admin. bldg., needs rehab, off-site use only.

Bldg. 512, Fort Hood
Ft. Hood, TX, Coryell, Zip: 76544–
Landholding Agency: Army
Property Number: 219330421
Status: Unutilized
Comment: 6733 sq. ft., 1 story wood, most recent use—commissary, off-site use only.

Bldg. 7040, Fort Hood
Ft. Hood, TX, Coryell, Zip: 76544–
Landholding Agency: Army
Property Number: 219330425
Status: Unutilized
Comment: 100 sq. ft., most recent use—oil storage bldg., off-site use only.

Bldg. P–293
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330441
Status: Unutilized
Comment: 442 sq. ft., 1 story brick, needs rehab, within National Landmark Historic District, off-site use only.

Bldg. P–298
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330442
Status: Unutilized
Comment: 3200 sq. ft., 1 story hollow tile, needs rehab, within National Landmark Historic District, off-site use only.

Bldg. P–371
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330443
Status: Unutilized
Comment: 18387 sq. ft., 2 story structural tile, off-site use only, most recent use—vehicle maintenance shop.

Bldg. P–377
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330444
Status: Unutilized
Comment: 74 sq. ft., 1 story brick, needs rehab, location in National Historic District, off-site use only, most recent use—scale house.

Bldg. S–1164
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330445
Status: Unutilized
Comment: 8629 sq. ft., 1 story wood frame, needs rehab, located in National Historic District, off-site use only.

Bldg. T–374
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330480
Status: Unutilized
Comment: 8640 sq. ft., 1 story wood frame, needs rehab, located in National Historic District, off-site use only.

Bldgs. T–1170, T–1468
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Numbers: 219330481–219330482
Status: Unutilized
Comment: 1144 sq. ft. ea., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. T–1492
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330483
Status: Unutilized
Comment: 2284 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. T–2066
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330484
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. T–2509
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330485
Status: Unutilized
Comment: 3147 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. T–5901
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330486
Status: Unutilized
Comment: 742 sq. ft., 1 story wood frame, off-site use only, most recent use—administration.

Bldg. T–1464
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330487
Status: Unutilized
Comment: 3778 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—t-shirts and frame shop.

Bldg. T–1874
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330488
Status: Unutilized
Comment: 3108 sq. ft., 1 story wood frame, needs rehab, off-site use only.

Bldg. T–2011
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330489
Status: Unutilized
Comment: 150 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storehouse.

Bldg. T–2193
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330490
Status: Unutilized
Comment: 1800 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage shed.

Bldg. T–2507
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330491
Status: Unutilized
Comment: 224 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–2510
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330492
Status: Unutilized
Comment: 3210 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–4044
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330493
Status: Unutilized
Comment: 263 sq. ft., 1 story brick frame, needs rehab, off-site use only, most recent use—storage.

Bldgs. T–2511, T–2512
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Numbers: 219330494–219330485
Status: Unutilized
Comment: 18260 sq. ft. ea., 1 story wood frame, needs rehab, off-site use only, most recent use—vehicle maintenance shop.

Bldg. T–2513
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330496
Status: Unutilized
Comment: 13603 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—repair shop.

Bldg. S–2516
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330497
Status: Unutilized
Comment: 3008 sq. ft., 1 story steel, lead contaminants present, off-site use only, most recent use—paint stripping plant.

Bldg. T–2520
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330498
Status: Unutilized
Comment: 31296 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—physical fitness.

Bldg. T–2183
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330499
Status: Unutilized
Comment: 3000 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—stable.

Bldg. T–6231
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330500
Status: Unutilized
Comment: 600 sq. ft., 1 story wood frame, off-site use only, most recent use—firing range.

Bldgs. T–6232, T–6236
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Numbers: 219330501–219330502
Status: Unutilized
Comment: 401 sq. ft. ea., 1 story wood frame, off-site use only, most recent use—firing range.

Bldg. T–2508
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330503
Status: Unutilized
Comment: 224 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. T–211
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340194
Status: Unutilized
Comment: 2284 sq. ft., 1 story wood frame, off-site use only, most recent use—instruction bldg.

Bldg. T–1031
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340195
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood frame, off-site use only, most recent use—photo lab.

Bldg. T–1126
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340196
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—blood donor center.

Bldg. P–5902
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219340197
Status: Unutilized
Comment: 1157 sq. ft., 1 story wood frame, off-site use only, most recent use—warehouse.

Virginia

Bldg. T–6015
U.S. Army Logistics Center & Fort Lee
Shop Road
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219012376
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 592, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219340199
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, needs rehab, most recent use—office, off-site use only.

Bldg. 708, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219340201
Status: Unutilized
Comment: 2750 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage.

Bldg. 709, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219340202
Status: Unutilized
Comment: 3500 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—boy scout activity.

Bldgs. 710, 711, 1748, 1749
Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Numbers: 219340203–219340206
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—education center.

Bldg. 1705, 1714 Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Numbers: 219340234, 219340236
Status: Unutilized
Comment: 1296 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. 214, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219340235
Status: Unutilized
Comment: 2540 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Bldg. 1969, Fort Eustis
Newport News VA 23604
Landholding Agency: Army
Property Number: 219340237
Status: Unutilized
Comment: 2592 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—administration.

Washington

Reserve Center, Longview
14 Port Way
Longview Co: Cowlitz WA 98632
Landholding Agency: Army
Property Number: 219320368
Status: Unutilized
Comment: 17304 sq. ft., 1 story training facility.

Wisconsin

Bldg. 7174, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320372
Status: Underutilized
Comment: 8466 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 7176, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320373
Status: Underutilized
Comment: 5415 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 7261, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320374
Status: Unutilized
Comment: 4800 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—gen. purpose warehouse.

Bldg. 457, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320380
Status: Underutilized
Comment: 573 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—officer's quarters.

Bldg. 1365, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320382
Status: Underutilized
Comment: 2688 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—maintenance shop.

Bldg. 556 Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320386
Status: Underutilized
Comment: 3748 sq. ft. ea., 1-story, presence of asbestos, needs rehab, used

intermittently by Army, most recent use—unit chapel.

Bldg. 455, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320390
Status: Underutilized
Comment: 2750 sq. ft., 1-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—admin/supply.

Bldg. 1734, Fort McCoy
Ft. McCoy, WI, Monroe, Zip: 54656–
Landholding Agency: Army
Property Number: 219320393
Status: Underutilized
Comment: 13620 sq. ft., 2-story, presence of asbestos, needs rehab, used intermittently by Army, most recent use—admin/supply.

*Land (by State)*

Kansas

Parcel 1
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012333
Status: Underutilized
Comment: 14.4+ acres.

Parcel 3
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012336
Status: Underutilized
Comment: 261+ acres; heavily forrested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012339
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River.
Landholding Agency: Army
Property Number: 219012340
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027–5020
Landholding Agency: Army
Property Number: 219012552
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Minnesota

Land
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120269
Status: Underutilized
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Nebraska

60 acres & bldgs.
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219340220
Status: Unutilized
Comment: 60 acres of land and structures (Bldg. A14), potential utilities.

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012049
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012056
Status: Unutilized
Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine
Area at Western edge of State Route 359
Landholding Agency: Army
Property Number: 219012057
Status: Unutilized
Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
Landholding Agency: Army
Property Number: 219012058
Status: Unutilized
Comment: 955 acres; road & utility easements; no utility hookup.

Ohio

5 acres
Doan U.S. Army Reserve Center
Portmonth Co: Scioto OH 45662–
Landholding Agency: Army
Property Number: 219320313
Status: Unutilized
Comment: 5 acres including paved roads, parking, sidewalks, etc.

3 acres
Hayes U.S. Army Reserve Center
Fremont Co: Sandusky OH 43420–
Landholding Agency: Army
Property Number: 219320316
Status: Unutilized
Comment: 3 acres including paved roads, parking, sidewalks, etc.

Tennessee

Milan Army Ammunition Plant
Milan Co: Carroll TN 38358–
Location: Plant boundary in the northeast corner of the plant & housing area
Landholding Agency: Army
Property Number: 219010547
Status: Excess
Comment: 17.2 acres; right of entry legal constraint.

Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012338
Status: Unutilized
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Land
Milan Army Ammunition Plant
NE corner of plant & housing area
Milan Co: Carroll TN 38358
Landholding Agency: Army
Property Number: 219240780
Status: Unutilized
Comment: 17.2 acres, secured area w/ alternate access, most recent use—buffer zone.

Texas

Vacant Land, Fort Sam Houston
All of Block 1800, Portions of Blocks 1900, 3100 and 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220438
Status: Unutilized
Comment: 250.33 acres, 85% located in floodplain, possibility of unexploded ordnance.

**Suitable/Unavailable Properties**

*Buildings (by State)*

Colorado

Bldg. T–1445, Fort Carson
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219320204
Status: Unutilized
Comment: 2255 sq. ft., 1 story wood frame, needs rehab, offsite use removal only, most recent use—admin.

Maryland

Bldgs. TMA4, TMA5, TMA8, TMA9
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320292
Status: Unutilized
Comment: approx. 800 sq. ft. steel plate, gravel base ammunition storage area, fair condition

Nevada

U.S. Army Reserve Center
685 East Plumb Lane
Reno Co: Washoe NV 89502
Landholding Agency: Army
Property Number: 219340180
Status: Unutilized
Comment: 11457 sq. ft., Reserve Center & 2611 sq. ft. vehicle repair shop on 4.29 acres, presence of asbestos, 1 story each, perpetual easement for road right of way 50 ft. from property

Texas

Bldg. P–2000, Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 219220389
Status: Underutilized
Comment: 49542 sq. ft., 3 story brick structure, within National Landmark Historic District.

Bldg. P–2001, Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 219220390
Status: Underutilized
Comment: 16539 sq. ft., 4 story brick structure, within National Landmark Historic District.

Bldg. P–2007, Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 219220391
Status: Underutilized
Comment: 13058 sq. ft., 4 story brick structure, within National Landmark Historic District.

Bldg. T–189, Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 219220402
Status: Underutilized
Comment: 11949 sq. ft., 4 story brick structure, within National Landmark Historic District, possible lead contamination.

Bldg. T–2066, Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 219220424
Status: Underutilized
Comment: 4720 sq. ft., 1 story wood structure, within National Landmark Historic District, possible asbestos.

Virginia

Bldg. T3004, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Number: 219310317
Status: Unutilized
Comment: 2350 sq. ft., 1-story wood frame, needs repair, most recent use—clinic.

Bldgs. T3022—T3024, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Numbers: 219310318–219310320
Status: Unutilized
Comment: 5310 sq. ft. each, 2-story wood frame, needs repair, most recent use—barracks.

Bldg. T3026, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824
Landholding Agency: Army
Property Number: 219310321
Status: Unutilized
Comment: 3550 s. ft., 1-story wood frame, needs repair, most recent use—dining room.

Bldg. T3025, T3040–T3041, T3049–T3050 Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Numbers: 219310322–219310326
Status: Unutilized
Comment: 2950 sq. ft. each, 1-story wood frame, needs repair, most recent use—dining room.

Bldgs. T3029–T3030, T3037–T3039, T3042–T3048, T3051–T3054, T3027–T3028 Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Numbers: 219310327–219310344
Status: Unutilized
Comment: 5310 sq. ft. each, 2-story wood frame, needs repair, most recent use—barracks.

Bldgs. T3031–T3036, T3057 Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Numbers: 219310345–219310351
Status: Unutilized
Comment: 2987 sq. ft. each, 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. T3055, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Number: 219310352
Status: Unutilized
Comment: 2488 sq. ft., 1-story wood frame, needs repair, most recent use—admin./supply.

Bldg. TT3001, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Number: 219310353
Status: Unutilized
Comment: 3302 sq. ft., 1-story wood frame, most recent use—chapel.

Bldg. TA3002, Fort Pickett
Blackstone, VA, Nottoway, Zip: 23824–
Landholding Agency: Army
Property Number: 219310354
Status: Unutilized
Comment: 360 sq. ft., 1-story wood frame, most recent use—clinic.

Bldg. 178, Fort Monroe
Ft. Monroe, VA 23651
Landholding Agency: Army
Property Number: 219320357
Status: Unutilized
Comment: 1470 sq. ft., 1 story, need repairs, most recent use—entomology facility, off-site use only.

*Land (by State)*

New Jersey

Land—Camp Kilmer
Plainfield Avenue
Edison Co: Middlesex NJ 08817
Landholding Agency: Army
Property number: 219230358
Status: Underutilized
Comment: approx. 10 acres in the southwest corner of site, most recent use—reserve training, wooded area.

**Suitable/To Be Excessed**

*Buildings (by State)*

Maryland

Bldg. 101
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012678
Status: Underutilized
Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 104
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012679
Status: Underutilized
Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 107
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012680
Status: Unutilized
Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Bldg. 120
Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910–
Landholding Agency: Army
Property Number: 219012681
Status: Underutilized
Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

*Land (by State)*

Texas

Land-Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76070
Landholding Agency: Army
Property Number: 219014814
Status: Unutilized
Comment: 43.08 acres, includes buildings/structures/parking and air strip

**Unsuitable Properties**

*Buildings (by State)*

Alabama

53 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 219014000, 219014009, 219014012, 219014015–219014051, 219014057, 219014060, 219014068, 219014075, 219014292, 219110109, 219120247–219120250, 219230190, 219330001–219330002
Status: Unutilized
Reason: Secured area.

Bldg. T00862
Fort McClellan
Off 21st Street between 2nd & 3rd Avenue
Fort McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 219130019

Status: Unutilized
Reason: Extensive deterioration.

Two Bedroom Apt.
Anniston Army Depot
Wherry Housing—Terrace Homes Apt.
Anniston Co: Calhoun AL 36201–
Landholding Agency: Army
Property Number: 219130108
Status: Excess
Reason: Extensive deterioration.

37 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219220341–219220344, 219310016, 219320001, 219330003–219330010, 219340112–219340126, 219340128, 219410015–219410019, 219410022–219410023
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 25203, 25205–25207, 25209, 25501, 25503, 25505, 25507, 25510, 29101, 29103–29109
Fort Rucker
Stagefield Areas
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Numbers: 219410020–219410021, 219410024
Status: Unutilized
Reason: Secured area.

27 Bldgs.
Phosphate Development Works
Muscle Shoals Co: Colbert AL 35660–1010
Landholding Agency: Army
Property Numbers: 219220789–219220815
Status: Unutilized
Reason: Extensive deterioration.

15 Bldgs., Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Numbers: 219330016, 219410001–219410014
Status: Unutilized
Reason: Extensive deterioration.

Alaska

16 Bldgs.
Fort Greely
Ft. Greely AK 99790–
Landholding Agency: Army
Property Numbers: 219210124–219210125, 219220319–219220332
Status: Unutilized
Reason: Extensive deterioration.

3 Bldgs., Fort Richardson
Ft. Richardson Co: Anchorage AK 99505
Landholding Agency: Army
Property Numbers: 219220352, 219230185, 219240270
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

10 Bldgs., Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99505
Landholding Agency: Army
Property Numbers: 219230183–219230184, 219410025–219410032
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

Bldg. 1144, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Number: 219240273
Status: Unutilized
Reason: Secured area, Within airport runway clear zone.

Bldgs. 5001, 5002, Fort Wainwright
Ft. Wainwright Co: Fairbanks/North AK 99703
Landholding Agency: Army
Property Numbers: 219240274–219240275
Status: Unutilized
Reason: Secured area, Floodway.

Bldg. 1501, Fort Greely
Ft. Greely AK 99505
Landholding Agency: Army
Property Number: 219240327
Status: Unutilized
Reason: Secured area.

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Numbers: 219014560–219014591
Status: Underutilized
Reason: Secured area.

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Numbers: 219014592–219014601
Status: Underutilized
Reason: Secured area.

9 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Numbers: 219030273–219030274, 219120175–219120181
Status: Unutilized
Reason: Secured area

Bldg. 84001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219210017
Status: Excess
Reason: Extensive deterioration.

Bldgs. T–2005, T–2006, S–2085, S–6078
Yuma Proving Ground
Yuma Co: Yuma/LaPaz AZ 85365–9104
Landholding Agency: Army
Property Numbers: 219320009–219320010, 219330020–219330021
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

Arkansas

Fort Smith USAR Center
Fort Smith
1218 South A Street
Fort Smith Co: Sebastian AR 72901–
Landholding Agency: Army
Property Number: 219014928
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Army Reserve Center
Hwy 79 North
Camden Co: Calhoun AR 71701–3415
Landholding Agency: Army
Property Number: 219220345
Status: Unutilized
Reason: Extensive deterioration.

68 Bldgs.
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219340023–219340090
Status: Unutilized
Reason: Extensive deterioration, Secured area.

California

Bldgs. P–177, P–178, 325, S–308, S–308A, T–308B
Fort Hunter Liggett
Jolon Co: Monterey CA 93928–
Landholding Agency: Army
Property Number: 219012414–219012415, 219012600, 219240284–219240285, 219240287
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. (Some are in a secured area.)

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 219240444–219240446
Status: Underutilized
Reason: Secured area.

9 Bldgs.
Oakland Army Base
Oakland Co: Alameda CA 94626–5000
Landholding Agency: Army
Property Number: 219013903–219013906, 219120051, 219340008–219340011
Status: Unutilized
Reason: Secured area. (Some are extensively deteriorated.)

Bldgs. S–108, S–20, S–290
Sharpe Army Depot
Lathrop Co: San Joaquin CA 95331–
Landholding Agency: Army
Property Number: 219014290, 219230178–219230179
Status: Underutilized
Reason: Secured area.

Bldg. S–184
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–
Landholding Agency: Army
Property Number: 219014602
Status: Underutilized
Reason: Secured area.

12 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219014713–219014717, 219014719–219014721, 219230181, 219320012

Status: Unutilized
Reason: Secured area.

Bldg. P–88
Sierra Army Depot
Road Oil Storage
Herlong Co: Lassen CA 96113–
Landholding Agency: Army
Property Number: 219014707
Status: Unutilized
Reason: Oil storage tank.

Bldgs. 173, 177, 197
Roth Road—Sharpe Army Depot
Lathrop Co: San Joaquin CA
Landholding Agency: Army
Property Number: 219014940–219014942
Status: Unutilized
Reason: Secured area.

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured area.

10 Bldgs., Sharpe Site
Lathrop Co: San Joaquin CA 95331–
Landholding Agency: Army
Property Number: 219140262–219140266, 219240151–219240155
Status: Unutilized
Reason: Secured area.

Bldg. T–187, Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928
Landholding Agency: Army
Property Number: 219240321
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Bldgs. 25, 36, 224, 257, Tracy Facility
Tracy Co: San Joaquin CA 95376
Landholding Agency: Army
Property Number: 219330022–219330025
Status: Unutilized
Reason: Secured area.

10 Bldgs., Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 219330026–219330035
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Colorado

70 Bldgs.
Pueblo Army Depot
Pueblo Co: Pueblo CO 81001
Location: 14 miles East of Pueblo City on Highway 50
Landholding Agency: Army
Property Number: 219012209, 219012211, 219012214, 219012216, 219012221, 219012223–219012224, 219012226–219012228, 219012230–219012231, 219012233, 219012235–219012237, 219012239–219012257, 219012260–219012275, 219012287, 219012290–219012298, 219012300, 219012743, 219012745, 219012747–219012748, 219120058–219120061
Status: Unutilized
Reason: Secured area.

26 Bldgs., Pueblo Depot Activity
Pueblo CO 81001
Landholding Agency: Army
Property Number: 219240466–219240482
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured area, Extensive deterioration.

Bldg. 230
Fitzsimons Army Medical Center
Aurora Co: Adams CO 80045–5001
Landholding Agency: Army
Property Number: 219330036
Status: Unutilized
Reason: Secured area.

Bldgs. T–2741, T–2742, T–2743, T–2744, T–2745
Fort Carson
Colorado Springs Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 219410033–219410037
Status: Unutilized
Reason: Extensive deterioration.

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment.

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905
Location:
Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack.

125 Bldgs. Page.
Fort Gordon
Augusta Co: Richmond GA 30905
Landholding Agency: Army
Property Number: 219220264–219220269, 219220279, 219220281, 219220291–219220293, 219320020–219320022, 219320026219320029, 219330048–219330060, 219410038–219410131
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 11726–11727
Fort Gordon
Augusta Co: Richmond GA 30905
Landholding Agency: Army
Property Number: 219210138–219210139
Status: Unutilized
Reason: Secured area.

5 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220333–219220337
Status: Unutilized
Reason: Detached lavatory.

Bldg. 1673, Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219220742
Status: Unutilized
Reason: Extensive deterioration.

10 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219310091, 219310093–219310094, 219310098–219310099, 219310105, 219310107, 219320030–219320031, 219320033
Status: Unutilized
Reason: Extensive deterioration.

11 Bldgs., Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 219330037–219330047
Status: Unutilized
Reason: Extensive Deterioration.

Hawaii

PU–01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
Schofield Barracks
Kolekole Pass Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Numbers: 219014836–219014837
Status: Unutilized
Reason: Secured area.

P–3384 East Range
Schofield Barracks
East Range Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219030361
Status: Unutilized
Reason: Secured area.

Bldg. T–1510, Fort Shafter
Honolulu Co: Honolulu HI 96819
Landholding Agency: Army
Property Number: 219320035
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 754–C, Schofield Barracks
Wahiawa Co: Wahiawa HI 96786
Landholding Agency: Army
Property Number: 219320034
Status: Unutilized
Reason: Extensive deterioration.

Illinois

609 Bldgs. and Groups
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436
Landholding Agency: Army
Property Numbers: 219010153–219010317, 219010319–219010407, 219010409–219010413, 219010415–219010439, 219011750–219011879, 219011881–219011908, 219012331, 219013076–219013138, 21901472–22219014781, 219030277–219030278, 219040354, 219140441–219140446, 219210146, 219240457–219240465, 219330062–219330094
Status: Unutilized
Reason: Secured Area; many within 2000 ft. of flammable or explosive materials; some within floodway.

Bldg. 725
Fort Sheridan
Highwood Co: Lake IL 60037–5000
Landholding Agency: Army
Property Number: 219013769
Status: Underutilized
Reason: Secured area.

Bldgs. 58, 59 and 72, 69, 64, 105

Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Numbers: 219110104–219110108
Status: Unutilized
Reason: Secured area.

Bldg. 133, Rock Island Arsenal
Gillespie Avenue
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219210100
Status: Underutilized
Reason: Extensive deterioration.

Bldgs. 250, 253, Savanna Army Depot Activity
Savanna Co: Carroll IL 61074
Landholding Agency: Army
Property Numbers: 219230126–219230127
Status: Unutilized
Reason: Extensive deterioration.

Indiana

246 Bldgs.
Indiana Army Ammunition Plant (INAAP)
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Numbers: 219010913–219010920, 219010924–219010936, 219010952, 219010955, 219010957, 219010959–219010960, 219010962–219010964, 219010966–219010967, 219010969–219010970, 219011449, 219011454, 219011456–219011457, 219011459–219011464, 219013764, 219013848, 219014608–219014653, 219014655–219014661, 219014663–219014683, 219030315, 219120168–219120171, 219140425–219140440, 219210152–219210155, 219230034–219230037, 219320036–219320111
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Most are within a secured area.)

58 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Numbers: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149–219210151, 219220220, 219230032–219230033
Status: Unutilized
Reason: Secured area.

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Numbers: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2635, Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240322
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Iowa

46 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Numbers: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174
Status: Unutilized
Reason: Secured area (Some are within 2000 ft. of flammable or explosive material.)

28 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Numbers: 219230005–219230029, 219310017, 219330061, 219340091
Status: Unutilized
Reason: Extensive deterioration.

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Numbers: 219011909–219011945
Status: Unutilized
Reason: Secured Area (most are within 2000 ft. of flammable or explosive material).

218 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Numbers: 219040039, 219040045, 219040048–219040051, 219040053, 219040055, 219040063–219040067, 219040072–219040080, 219040086–219040099, 219040102, 219040111–219040112, 219040118–219040119, 219040121–219040124, 219040126, 219040128–219040133, 219040136–219040137, 219040139–219040140, 219040143, 219040149–219040154, 219040156, 219040160–219040165, 219040168–219040170, 219040180, 219040182–219040185, 219040190–219040191, 219040202, 219040205–219040207, 219040208, 219040210–219040221, 219040234–219040239, 219040241–219040254, 219040256–219040257, 219040260, 219040262–219040267, 219040270–219040279, 219040282–219040319, 219040321–219040323, 219040325–219040327, 219040330–219040335, 219040349, 219040353, 219140569–219140577, 219140580–219140591, 219140594, 219140599–219140601, 219140606–219140612
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, floodway, secured area.

21 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Numbers: 219040007–219040008, 219040010–219040012, 219040014–219040027, 219040030–219040031
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, floodway.

Bldg. 9002
Sunflower Army Ammunition Plant
35525 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219110073
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, secured area.

6 Bldgs.
Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Numbers: 219240032, 219240078–219240080, 219310207, 219410132
Status: Unutilized
Reason: Extensive deterioration.

11 Latrines
Sunflower Army Ammunition Plant
35425 West 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Numbers: 219140578–219140579, 219140593, 219140595–219140598, 219140602–219140605
Status: Unutilized
Reason: Detached latrine.

226 Bldgs., Sunflower Army Ammunition Plant
DeSoto Co: Johnson KS 66018
Landholding Agency: Army
Property Numbers: 219240333–219240437, 219340001–219340007
Status: Unutilized
Reason: Secured area, within 2000 ft. of flammable or explosive material, extensive deterioration.

Kentucky

Bldg. 126
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured area, sewage treatment facility.

Bldg. 12
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location:
12 miles northeast of Lexington, Kentucky
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

23 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Numbers: 219320112–219320133, 219410146
Status: Unutilized
Reason: Extensive deterioration.

53 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Numbers: 219210132–219210135, 219240450–219240456, 219320138–219320142, 219340221–219340233, 219340242–219340253, 219410133–219410145
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

Louisiana

26 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–

Landholding Agency: Army
Property Number: 219011668–219011670, 219011700, 219011714–219011716, 219011735–219011737, 219012112, 219013571–219013572, 219013863–219013869, 219110124, 219110127, 219110131, 219110135–219110136, 219120290
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.)

Staff Residences
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219120284–219120286
Status: Excess
Reason: Secured area.

Bldg. A–102
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219230087
Status: Unutilized
Reason: Extensive deterioration.

14 Bldgs.
Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219240137–219240150
Status: Unutilized
Reason: Secured area.

8 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219320282, 219340105–219340111
Status: Unutilized
Reason: Extensive deterioration.

Maryland

56 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219011406–219011417, 219012608, 219012610, 219012612, 219012614, 219012616–219012617, 219012619, 219012623, 219012625–219012629, 219012631, 219012633–219012635, 219012637–219012642, 219012645–219012651, 219012655–219012664, 219013773, 219014711–219014712, 219030316, 219110140, 219240329
Status: Unutilized
Reason: Most are in a secured area, (Some are within 2000 ft. of flammable or explosive material), (Some are in a floodway).

P501
Installation #24235
Ballast House
La Plata Co: Charles MD 20646–
Location: At the end of the access road
Landholding Agency: Army
Property Number: 219011643
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Bldg. 1958
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219014789
Status: Unutilized
Reason: Secured area.

Bldg. 10401
Aberdeen Proving Ground
Aberdeen Area
Harford Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110138
Status: Unutilized
Reason: Sewage treatment plant.

Bldg. 10402
Aberdeen Proving Ground
Aberdeen Area
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219110139
Status: Unutilized
Reason: Sewage pumping station.

Bldgs. 142, 144–146, USARC Gaithersburg
8510 Snouffers School Road
Gaithersburg Co: Montgomery MD 20879–1624
Landholding Agency: Army
Property Number: 219120009, 219120011–219120013
Status: Unutilized
Reason: Secured area.

42 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219130059, 219140458, 219140460–219140461, 219140465, 219140467, 219140472, 219140510, 219210123, 219220126, 219220142, 219220146–219220148, 219220153, 219220161, 219220171–219220173, 219220190–219220192, 219220195–219220197, 219240121, 219310022, 219310026–219310027, 219310031–219310033, 219320144, 219330112–219330118, 219340013–219340014
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 132, 135 Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Number: 219330109–219330110
Status: Underutilized
Reason: Secured area.

Bldg. T–116, Fort Detrick
Frederick Co: Frederick MD 21762–5000
Landholding Agency: Army
Property Number: 219340012
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4900, Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219230089
Status: Unutilized
Reason: Within airport runway clear zone.

Massachusetts

Material Technology Lab
405 Arsenal Street
Watertown Co: Middlesex MA 02132–
Landholding Agency: Army
Property Number: 219120161
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway, Secured area.

Bldgs. T–102, T–110, T–111, Hudson Family Hsg
Natick RD&E Center
Bruen Road
Hudson Co: Middlesex MA 01749
Landholding Agency: Army
Property Number: 219220105–219220107
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Bldgs. 3596, 1209–1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230096, 219310018–219310020
Status: Unutilized
Reason: Secured area.

Michigan

Bldgs. 602, 604
US Army Garrison Selfridge
Mt. Clemens Co: Macomb MI 48043Landholding Agency: Army
Property Number: 219012355–219012356
Status: Unutilized
Reason: Within airport runway clear zone, Floodway, Secured area.

Detroit Arsenal Tank Plant
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090–
Landholding Agency: Army
Property Number: 219014605
Status: Underutilized
Reason: Secured area.

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured area Extensive deterioration.

25 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 219014947–219014963 219140447–219140454
Status: Unutilized
Reason: Secured area.

Minnesota

74 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120165–219120167, 219210014–219210015, 219220227–219220235, 219240328, 219310055–219310056, 219320145219320156, 219330096–219330108, 219340015, 219410159–219410189
Status: Unutilized
Reason: Secured area, (Most are within 2000 ft. of flammable or explosive material.)

Mississippi

Bldgs. 8301, 8303–8305, 9158
Mississippi Army Ammunition Plant
Stennis Space Center Co: Hancock MS 39529–7000
Landholding Agency: Army

Property Number: 219040438–219040442
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Missouri

Lake City Army Ammo. Plant
59, 59A, 59C, 59B
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669
Status: Unutilized
Reason: Secured area.

Bldg #1, 2, 3
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120069
Status: Unutilized
Reason: Secured area.

2 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219140422–219140423
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Nebraska

13 Bldgs.
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68802–
Location: 4 miles west (Potash Road)
Landholding Agency: Army
Property Number: 219013849–219013861
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

8 Bldgs.
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219230092–219230094, 219310238–219310239, 219340129–219340131
Status: Unutilized
Reason: Extensive deterioration.

Bldg. A0002
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219310240
Status: Unutilized
Reason: Standby generator bldg.

Nevada

7 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219011953, 219011955, 219012061–219012062, 219012106, 219013614, 219230090
Status: Unutilized
Reason: Secured area.

Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street-North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone, Secured area.

57 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012009, 219012013, 219012021, 219012044, 219013615–219013651, 219013653–219013656, 219013658–219013661, 219013663, 219013665, 219340016–219340021
Status: Underutilized
Reason: Secured Area, (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material).

62 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: North Mag. Area
Landholding Agency: Army
Property Number: 219120150
Status: Unutilized
Reason: Secured area.

259 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South & Central Mag. Areas
Landholding Agency: Army
Property Number: 219120151
Status: Unutilized
Reason: Secured area.

Facility No. 00169, 00A38
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219240276, 219330119
Status: Unutilized
Reason: Extensive deterioration.

New Jersey

201 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806–5000
Location: Route 15 north
Landholding Agency: Army
Property Number: 219010440–219010474, 219010476, 219010478, 219010639–219010667, 219010669–219010721, 219012423–219012424, 219012426–219012428, 219012430–219012431, 219012433–219012466, 219012469–219012472, 219012474–219012475, 219012756–219012760, 219012763–219012767, 219013787, 219014306–219014307, 219014311, 219014313–219014321, 219030269, 219140617, 219230118–219230125
Status: Excess
Reason: Secured area, (Most are within 2000 ft. of flammable or explosive material.)

24 Bldgs.
Fort Monmouth
Wall Co: Monmouth NJ 07719–
Landholding Agency: Army
Property Number: 219012829–219012833, 219012837, 219012841–219012842, 219013786, 219210102, 219230177, 219320157, 219330129–219330140
Status: Unutilized
Reason: Secured area.

10 Bldgs., Military Ocean Terminal
Bayonne Co: Hudson NJ 07002–
Location: Foot of 32nd Street and Route 169.
Landholding Agency: Army
Property Number: 219013890–219013896, 219330141–219330143
Status: Unutilized
Reason: Floodway, Secured area.

Bldgs. 820C, 3598
Armament Research, Dev & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219240315–219240316
Status: Unutilized
Reason: Secured area
Extensive deterioration.

New Mexico

Bldgs. 21384, 28356, 32010, 32984
White Sands Missile Range
White Sands Co: Dona Ana NM 88802
Landholding Agency: Army
Property Number: 219330144–219330147
Status: Unutilized
Reason: Extensive deterioration.

New York

Bldg. 110
Fort Totten
110 Duane Road
Bayside Co: Queens NY 11359–
Landholding Agency: Army
Property Number: 219012589
Status: Unutilized
Reason: Contamination.

Bldgs. 202, 204, Fort Totten
Bayside Co: Queens NY 11357–
Landholding Agency: Army
Property Number: 219210130–219210131
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 110, Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439
Status: Unutilized
Reason: Secured area.

Bldgs. 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240440–219240443
Status: Unutilized
Reason: Secured area, Extensive deterioration.

Bldg. 124
U.S. Military Academy
West Point Co: Orange NY 10996
Landholding Agency: Army
Property Number: 219330148
Status: Unutilized
Reason: Extensive deterioration.

North Carolina

20 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219310054, 219320160–219320166, 219330120–219330124, 219330127–219330128, 219340099–219340104
Status: Unutilized
Reason: Extensive deterioration.

Ohio

63 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219012476–219012507, 219012509–219012513, 219012515.

219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–219013677, 219013781, 219210148
Status: Unutilized
Reason: Secured area.

Bldgs. T–404, T–78, T–79, T–97, T–80, 309, 317
Defense Construction Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219240331, 219310034–219310039
Status: Unutilized
Reason: Secured area. (Some are extensively deteriorated.)

12 Bldgs., Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219320399–219320410
Status: Unutilized
Reason: Extensive deterioration.

Oklahoma

547 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Number: 219011674, 219011680, 219011684, 219011687, 219012113, 219013792, 219013981–219013991, 219013994, 219014081–219014102, 219014104, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 219040004
Status: Underutilized
Reason: Secured area. (Some are within 2000 ft. of flammable or explosive material).

P–3042, Fort Sill
3042 Austin Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219130060
Status: Unutilized
Reason: Structurally unsound.

16 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Numbers: 219140524–219140525, 219140528–219140529, 219140535, 219140545–219140548, 219140550–219140554, 219320168, 219320337
Status: Unutilized
Reason: Extensive deterioration.

18 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Numbers: 219310050–219310053, 219320170–219320171, 219330149–219330160
Status: Unutilized
Reason: Secured area.

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Numbers: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured area.

24 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Numbers: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 219320201
Status: Unutilized
Reason: Secured area.

Pennsylvania

Defense Personnel Support Ctr.
2800 South 20th Street
Philadelphia Co: Philadelphia PA 19101–8419
Landholding Agency: Army
Property Number: 219011664
Status: Underutilized
Reason: Other environmental, secured area.
Comment: Friable asbestos.

Hays Army Ammunition Plant
300 Miffin Road
Pittsburgh Co: Allegheny PA 15207–
Landholding Agency: Army
Property Number: 219011666
Status: Excess
Reason: Secured area.

58 Bldgs.
Fort Indiantown GAP
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Numbers: 219140267–219140324
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 82001, Reading USARC
Reading Co: Berks PA 19604–1528
Landholding Agency: Army
Property Number: 219320173
Status: Unutilized
Reason:
Extensive deterioration.

South Carolina

8 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Numbers: 219410148, 219410152–219410158
Status: Unutilized
Reason: Extensive deterioration.

Tennessee

Bldg. 100
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Number: 219010475
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.

23 Bldgs.
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Numbers: 219010477, 219010479–219010500
Status: Underutilized
Reason: Secured area. (Some are within 2000 ft. of flammable on explosive material.)

24 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Numbers: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613, 219330178
Status: Unutilized
Reason: Secured area. (Some are within 2000 ft. of flammable or explosive material.)

30 Bldgs.
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37422
Landholding Agency: Army
Property Numbers: 219240127–219240136
Status: Unutilized
Reason: Secured area.

8 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Numbers: 219240447–219240449, 219320182–219320184, 219330176–219330177
Status: Unutilized
Reason: Secured area.

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Texas

Saginaw Army Aircraft Plant
Saginaw Co: Tarrant TX 76079–
Landholding Agency: Army
Property Number: 219011665
Status: Unutilized
Reason: Easement to city of Saginaw for sewer pipeline ending 5/15/2023.

18 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Bldgs. 0021A, 0027A
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State highway 43 north
Landholding Agency: Army
Property Number: 219012546, 219012548
Status: Underutilized
Reason: Secured area.

13 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219120064, 219130002, 219140255, 219230109–219230115, 219320193–219320194, 219330163

Status: Unutilized
Reason: Secured area.

Bldg. T–5000
Camp Bullis
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220100
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Swimming Pools
Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219230108
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 56512, Fort Hood
Ft. Hood Co: Coryell TX 76544
Landholding Agency: Army
Property Number: 219310166
Status: Unutilized
Reason: Detached latrine.

8 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 219340022, 219340238–219340241, 219410149–219410151
Status: Unutilized
Reason: Extensive deterioration.

8 Bldgs., Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330161–219330162, 219330473–219330474, 219340095–219340098
Status: Unutilized
Reason: Extensive deterioration.

8 Bldgs., Fort Hood
Ft. Hood Co: Coryell TX 76544
Landholding Agency: Army
Property Number: 219330167–219330174
Status: Unutilized
Reason: Pump station.

Bldg. T–2514
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330475
Status: Unutilized
Reason: Pump house.

Bldgs. T–2916, T–3180, T–3192, T–3398
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330476–219330479
Status: Unutilized
Reason: Detached latrines.

Utah

14 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012153, 219012166, 219030366, 219240263, 219310040–219310049
Status: Unutilized
Reason: Secured area.

12 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012143–219012144, 219012148–219012149, 219012152, 219012155, 219012156, 219012158, 219012742, 219012751, 219240266–219240267
Status: Underutilized
Reason: Secured area.

12 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219013996–219013999, 219130008, 219130011–219130013, 219130015–219130018
Status: Underutilized
Reason: Secured area.

15 Bldgs.
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219014693, 219130009–219130010, 219130014, 219220204–219220207, 219330179–219330185
Status: Unutilized
Reason: Secured area.

2 Bldgs.
Tooele Army Depot, South Area
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219240264, 219240268,
Status: Unutilized
Reason: Extensive deterioration.

Virginia

164 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010839, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Location: State Highway 114
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area
Comment: Latrine, detached structure.

57 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240084, 219240096, 219240103–219240105, 219240107–219240118, 219330191–219330228, 219340092–219340094
Status: Unutilized
Reason: Extensive deterioration, (Some are in a secured area.)

Bldg. T–221
Vint Hill Farms Station
Warrenton Co: Fauquier VA 22186–
Landholding Agency: Army
Property Number: 219210142
Status: Unutilized
Reason: Extensive deterioration.

13 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219220210–219220218, 219230100–219230103
Status: Unutilized
Reason: Secured area.

2 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801
Landholding Agency: Army
Property Number: 219220312, 219220314
Status: Underutilized
Reason: Extensive deterioration.

44 Bldgs., Fort A.P. Hill
Bowling Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 219240288–219240314
Status: Underutilized
Reason: Detached latrines.

Bldg. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured area, Within 2000 ft. of flammable or explosive material, Extensive deterioration.

10 Bldgs., Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 219310135–219310136, 219310138–219310139, 219310141–219310145, 219310147
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 106, Fort Monroe
Ft. Monroe VA 23651
Landholding Agency: Army
Property Number: 219330186
Status: Unutilized
Reason: Extensive deterioration.

Wisconsin

6 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011094, 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Other environmental, Secured area.
Comment: Friable asbestos.

154 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236,

219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Other environmental, Secured area.
Comment: Friable asbestos.

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured area.

3 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878
Status: Unutilized
Reason: Secured area.

Bldgs. 6513–27, 6823–2, 6861–4
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219210097–219210099
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

80 Bldgs., Fort McCoy
US Hwy. 21
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Numbers: 219210106, 219210108–219210109, 219210111, 219210115, 219240206–219240262, 219310208–219310225
Status: Unutilized
Reason: Extensive deterioration.

17 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Numbers: 219220295–219220311
Status: Unutilized
Reason: Secured area.

Bldg. 2126, Fort McCoy
Ft. McCoy Co: Monroe WI 54656
Landholding Agency: Army
Property Number: 219320200
Status: Underutilized
Reason: Detached latrine.

*Land (by State)*

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Numbers: 219210095–219210096
Status: Excess
Reason: Secured area.

Alaska

Campbell Creek Range
Fort Richardson
Anchorage Co: Greater Anchorage AK 99507
Landholding Agency: Army
Property Number: 219230188
Status: Unutilized
Reason: Inaccessible.

Illinois

Group 66A
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219010414
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Parcel 1
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Location: South of the 811 Magazine Area, adjacent to the River Road.
Landholding Agency: Army
Property Number: 219012810
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Floodway.

Parcel No. 2, 3
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013796–219013797
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway.

Parcel No. 4, 5, 6
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013798–219013800
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Floodway.

Homewood USAR Center
18760 S. Halsted Street
Homewood Co: Cook IL 60430–
Landholding Agency: Army
Property Number: 219014067
Status: Underutilized
Reason: Secured area.

38,000 sq. ft. & 4,000 sq. ft. of Land
Rock Island Arsenal
South Shore Moline Pool Miss. River
Moline Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Numbers: 219240317–219240318
Status: Unutilized
Reason: Floodway.

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Land—Plant 2
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219330095
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Numbers: 219012630, 219012632
Status: Underutilized
Reason: Floodway, Secured area.

Nebraska

Land
Cornhusker Army Ammunition Plant
Potash Road
Grand Island Co: Hall NE 68802–
Location: 4 miles west of Grand Island
Landholding Agency: Army
Property Number: 219013785
Status: Underutilized
Reason: Floodway.

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured area.

Oklahoma

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Pennsylvania

Lickdale Railhead
Fort Indiantown Gap
Lickdale Co: Lebanon PA 17038–
Landholding Agency: Army
Property Number: 219012359
Status: Excess
Reason: Floodway.

Tennessee

Land
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219013791
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN
Location: Area around VAAP—outside fence in buffer zone
Landholding Agency: Army
Property Number: 219013880
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area.

Utah

Land—32 Acres
Tooele Army Depot
Tooele Co: Tooele UT 84084
Landholding Agency: Army
Property Number: 219240269
Status: Unutilized
Reason: Secured area.

Virginia

Fort Belvoir Military Reservation-5.6 Acres
South Post located West of Pohick Road
Fort Belvoir Co: Fairfax VA 22060
Location: Rightside of King Road
Landholding Agency: Army
Property Number: 219012550
Status: Unutilized
Reason: Within airport runway clear zone. Secured area.

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Location: Vacant land within plant boundaries
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured area.

[FR Doc. 94–7600 Filed 3–31–94; 8:45 am]
BILLING CODE 4210–29–P

## Office of the Assistant Secretary for Housing—Federal Housing Commissioner

**[Docket No. N–94–3742; FR–3690–N–01]**

## Notice of Debenture Recall

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice announces a debenture recall of certain Federal Housing Administration debentures, in accordance with authority provided in the National Housing Act.

**FOR FURTHER INFORMATION CONTACT:** Richard Keyser, room B133, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–7510. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 207(j) of the National Housing Act, 12 U.S.C. 1713(j), and in accordance with HUD regulations at 24 CFR 207.259(e)(3), the Federal Housing Commissioner, with approval of the Secretary of the Treasury, announces the call of all Federal Housing Administration debentures with coupon rates of 6.75 percent or higher, except for those debentures subject to "debenture lock agreements," that have been registered on the books of the Federal Reserve Bank of Philadelphia, and are, therefore, "outstanding" as of March 31, 1994. The date of the call is July 1, 1994. To insure timely payment, debentures should be presented to the Federal Reserve Bank of Philadelphia by June 1, 1994.

The debenture will be redeemed at par plus accrued interest. Interest will cease to accrue on the debentures as of the call date. Final interest on any called debentures will be paid with the principal at redemption. During the period from the dates of this notice to the call date, debentures that are subject to the call may not be used by the mortgagee for a special redemption purchase in payment of a mortgage insurance premium.

No transfer or denominational exchanges of debentures covered by the foregoing call will be made on the books maintained by the Treasury Department on or after April 1, 1994. This does not affect the right of the holder of a debenture to sell or assign the debenture on or after this date. Payment of final principal and interest due on July 1, 1994, will be made to the registered holder or assignee.

Instructions for the presentation and surrender of debentures for redemption will be provided to holders by the Department.

Dated: March 29, 1994.

**Nicolas P. Retsinas,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 94–8016 Filed 3–31–94; 8:45 am]
BILLING CODE 4210–27–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[NV–054–94–4333–11: NV5–93–35; 4–00154]**

## Nevada: Temporary Closure of Certain Public Lands in the Las Vegas District for Management of the 1994 Running of the Score "Nevada 400" Off-Highway Vehicle (OHV) Race

**ACTION:** Temporary closure of certain Public Lands in the Clark County, Nevada, on the adjacent to the 1994 "NEVADA 400" race course on April 2, 1994. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittee(s) and right-of-way grantees.

**SUPPLEMENTARY INFORMATION:** Certain public lands in the Las Vegas District, Clark County, Nevada will be temporarily closed to public access from 1800 hours, April 1, 1994, to 1500 hours, April 2, 1994, to protect persons, property, and public land resources on and adjacent to the 1994 "NEVADA 400" OHV race course. The Las Vegas District Manager is the authorized officer for the 1994 "NEVADA 400" OHV race, permit number NV5–93–35. These temporary closures and restrictions are made pursuant to 43 CFR part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1994 "NEVADA 400" OHV race course.

The following public lands administered by the BLM restricted or closed are described as: The Nellis area; T. 19 S., R. 62 E., M.D.M., section 1 through 36. The Las Vegas Dunes area; T. 19S., R. 63 E., section 1 through 36. The Arrolime area; T. 18 S., R. 63 E., section 1 through 36. The Dry Lake area; T. 19 S., R. 64 E., section 1 through 36. T. 18 S., R. 64 E., section 1 through 36. T. 17 S., R. 64 E., section 1 through 36. The California Wash area; T. 16 S., R. 65 E., section 1 through 36. T. 15 S., R. 66 E., all of sections 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33. T. 16 S., R. 66 E., all of sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 29, and 30. T. 17 S., R. 65 E., section 1 through 36. The Piute Wash area; T. 15 S., R. 64 E., section 1 through 36. T. 15 S., R. 65 E., section 1 through 36. The Arrow Canyon area; T. 16. S., R. 63 E., all of sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, and 36. And, T. 17 S., R. 63 E., section 1 through 36.

The following public lands administered by the BLM will be open authorized SCORE spectator areas: All public lands lying east of Las Vegas Blvd. North and within T. 19 S., R. 63 E., M.D.M., section 16, NW¼; SE¼NE¼NE¼; SE¼NE¼; SE¼SW¼; SE¼; and section 20, NW¼.

The above legal land descriptions are for public lands within Clark, County, Nevada. A map showing specific areas closed to public access is available from the following BLM office: The Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 647–5000.

Any person who fails to comply with this closure order issued under 43 CFR part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: March 17, 1994.

**Gary Ryan,**

*Acting District Manager, Las Vegas District.*

[FR Doc. 94–7753 Filed 3–31–94; 8:45 am]
BILLING CODE 4310–HC–M

**[MT–920–04–4110–03–P; NDM 1666; 6–00155–ILM]**

## Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NDM 1666, McKenzie County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $7 per acre and 16⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this notice.

Dated: March 22, 1993.

**Cynthia L. Embretson,**

*Chief, Fluids Adjudication Section.*

[FR Doc. 94-7780 Filed 3-31-94; 8:45 am]

BILLING CODE 4310-DN-M

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**[WY-920-41-5700; WYW118443]**

## Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW118443 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW118443 effective October 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: March 25, 1994.

**Florence R. Speltz,**

*Supervisory Land Law Examiner.*

[FR Doc. 94-7749 Filed 3-31-94; 8:45 am]

BILLING CODE 4310-22-M

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**[WY-920-41-5700; WYW113301]**

## Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW113301 for lands in Fremont County Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW113301 effective October 1, 1993, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Dated: March 25, 1994.

**Florence R. Speltz,**

*Supervisory Land Law Examiner.*

[FR Doc. 94-7756 Filed 3-31-94; 8:45 am]

BILLING CODE 4310-22-M

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**[NM-030-4210-05; NMNM91638]**

## Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action; R&PP Act Classification.

**SUMMARY:** The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to Gadsden Independent School District under the provision of the R&PP Act, as amended (43 U.S.C. 869 et seq.). Gadsden Independent School District proposes to use the land for two school sites.

T. 26 S., R. 5 E., NMPM
Sec. 14, E½E½SW¼SW¼, part W½SE¼SW¼.
Containing 28.75 acres, more or less.

**DATES:** Comments regarding the proposed lease/conveyance or classification must be submitted on or before May 16, 1994.

**ADDRESSES:** Comments should be sent to the Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005.

**FOR FURTHER INFORMATION CONTACT:** Marvin M. James at the address above or at (505) 525-4349.

**SUPPLEMENTARY INFORMATION:** Lease or conveyance will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico, 88005. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

### Classification Comments

Interested parties may submit comments involving the suitability of the land for two school sites. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

### Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or

any other factor not directly related to the suitability of the land for two school sites.

Dated: March 24, 1994.

**Stephanie Hargrove,**

*Associate District Manager.*

[FR Doc. 94–7755 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–FB–M

[ID–050–406A–05; 4–00156]

## Availability of Draft Bennett Hills Resource Management Plan, and Amendment to the Jarbidge Resource Management Plan/Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability of the Draft Bennett Hills Resource Management Plan and amendment to the Jarbidge Resource Management Plan/Environmental Impact Statement.

**SUMMARY:** In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976, a draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Bennett Hills planning area. The RMP/EIS describes and analyzes future options for managing approximately 650,000 acres of public land in Lincoln, Gooding, Camas, Jerome, Blaine and Elmore Counties in south-central Idaho. It also addresses the suitability of three river segments—Big Wood River, Dry Creek and King Hill Creek—for recommendation to Congress for inclusion in the Wild and Scenic Rivers System, and finds these segments unsuitable for recommendation. Six segments of the Snake River are found eligible for consideration for Wild and Scenic River study. Suitability studies are delayed until after the Record of Decision on this RMP. The RMP would designate eight Areas of Critical Environmental Concern, totaling 14,878 acres, and 19 caves as significant cave resources. The RMP would further add 3,198 acres of former State of Idaho in holdings, acquired through a recent land exchange, into the surrounding five Wilderness Study Areas.

This document also identifies a draft amendment to the Jarbidge Resource Management Plan that would designate 800 acres along 10 miles of the west side of King Hill Creek as an Area of Critical Environmental Concern in coordination with the same designation along the east side within the Bennett Hills planning area.

Copies will be available from the Shoshone District Office, P.O. Box 2–B, 400 West F Street, Shoshone, Idaho 83352; phone (208) 886–2206.

**DATES:** Written comments on the draft RMP/EIS must be submitted or postmarked by July 1, 1994. Additional public meetings may be held. Dates and times of any public meetings will be published as legal notices for five consecutive days in the Twin Falls *Times-News* daily newspaper at least 15 days before the meeting date.

**ADDRESSES:** Written comments on the document should be directed to:

Mary C. Gaylord, District Manager, Bureau of Land Management, Shoshone District Office, 400 West F Street, P.O. Box 2–B, Shoshone, Idaho 83352.

**FOR FURTHER INFORMATION CONTACT:** William "Buck" West, Project Manager, Shoshone District Office, P.O. Box 2–B, 400 West F Street, Shoshone, Idaho 83352; telephone (208) 886–2206 or (208) 886–7203.

**SUPPLEMENTARY INFORMATION:** The Bennett Hills Resource Management Plan (RMP) is prepared to provide the Shoshone District Bureau of Land Management with a comprehensive framework for managing 649,786 acres of BLM-administered public land over the next 15 to 20 years. The draft plan and impact statement is focused on resolving planning issues associated with the management of the planning area's public land. Planning issues were identified by the public and the BLM during the scoping period, which began on September 20, 1990. The following planning issues were identified through public participation for the Bennett Hills planning area: How will the BLM continue to focus management attention or riparian resources and related uplands? What land will be acquired into, or made available for disposal from, federal ownership? How will public resources along the north rim of the Snake River Canyon be managed and for what uses? Is there a need for protecting the Resource Area's critical resource values through special management designation?

The alternatives chosen for study in this draft plan and impact statement are: Alternative A is the "no action" alternative and would continue the current management subject to new policy direction by the BLM's State and Washington Offices. Alternatives B, C and D use desired future vegetation condition to establish management goals and direction instead of the traditional commodity goals used in Alternative A. Alternatives B and C differ from each other in the management of recreation use along the north rim of the Snake River, the initial level of grazing use, and in the recommendation of river segments for consideration by Congress for inclusion in the National Wild and Scenic Rivers System. Alternative D reflects a conceptual agreement between the BLM and the State of Idaho for land exchange. Alternatives A and B leave the initial livestock grazing at current levels, while Alternatives C and D adjust the livestock use levels at the 1984–1992 nine-year average actual use. Alternative D is the BLM's preferred alternative.

The preferred alternative identifies eight Areas of Critical Environmental Concern: 12 acres of Kings Crown as a Research Natural Area/Area of Critical Environmental Concern for the purpose of establishing a reference area for potential natural vegetation, 1,399 acres in Dry Creek as a Research Natural Area/Area of Critical Environmental Concern for the primary purpose of establishing a reference area to study riparian and upland vegetation communities under controlled livestock use, 101 acres around Fir Grove as a Research Natural Area/Area of Critical Environmental Concern for research purposes, 361 acres of Camas Creek as a Research Natural Area/Area of Critical Environmental Concern as a research area for riparian vegetation, 2,642 acres as the King Hill Creek Research Natural Area/Area of Critical Environmental Concern in the Bennett Hills and Bruneau Resource Areas (amends the Jarbidge RMP), for the primary purpose to protect a genetically pure strain of redband trout that inhabits the middle and upper reaches of the creek by maintaining or improving instream habitat quality and upland watershed condition, 142 acres in Box Canyon as an Area of Critical Environmental Concern for the purpose of preservation and research of threatened and endangered animal species, 178 acres in the Vineyard Lake area as an Area of Critical Environmental Concern to preserve spawning habitat for hybrid trout, and 10,043, acres as the T–Maze Cave Research Natural Area/Area of Critical Environmental Concern to protect the unique subsurface resources.

The RMP would recommend the following actions to protect the values of the ACECs. Stipulate no surface occupancy for leasable mineral (oil and gas) exploration and development in the Box Canyon, Vineyard Lake, Dry Creek, Fir Grove, Camas Creek, King Hill Creek (amends the Jarbidge RMP) and Kings Crown ACECs. It would further stipulate no surface occupancy for leasable mineral (oil and gas) exploration and development including seismic

exploration on 1,314 acres of the T–Maze ACEC.

It would limit vehicle use to designated and signed roads and trails identified in the Box Canyon, Vineyard Lake, and Dry Creek ACECs activity plans, and on 1,314 acres in the T–Maze ACEC. Close the Kings Crown, Camas Creek, King Hill Creek (amends Jarbidge RMP) and Fir Grove ACECs to vehicle use. Close the Box Canyon, Vineyard Lake, Dry Creek, Fir Grove, Camas Creek, King Hill Creek (amends the Jarbidge RMP) and Kings Crown ACECs to materials sales and free use permits.

Authorize no material sales or free use permits inside the cave(s) in the T–Maze ACEC. Withdraw the Box Canyon, Vineyard Lake, Kings Crown, Dry Creek, Fir Grove, Camas Creek, King Hill Creek (amends the Jarbidge RMP) and 1,314 acres of the T–Maze ACECs from mineral entry. Identify the Kings Crown, Dry Creek, Fir Grove, Camas Creek, King Hill Creek (amends the Jarbidge RMP) and 1,314 acres of the T–Maze ACEC as an exclusion area for land use authorizations; and 8,717 acres of the T–Maze ACEC as an avoidance area for land use authorizations.

The plan would close the Kings Crown ACEC to livestock grazing. Close the Dry Creek ACEC to livestock grazing below the canyon rim except for designated spring trailing use with no overnight stays. Close the Camas Creek ACEC to livestock grazing except for sheep trailing within the wing fences at Macon Sheep Bridge with no overnight stays.

The plan would restrict access to the cave(s) containing bats in the T–Maze ACEC during winter hibernation periods (November through April) except for approved research or BLM management actions. Allow no sampling or collecting of plants or animals in the Box Canyon and Vineyard Lake ACECs, and no subsurface collecting or sampling in the T–Maze ACEC, unless approved by the authorized officer. Permit no vegetation manipulation or surface disturbing activities in the Kings Crown, Fir Grove and Dry Creek ACECs except for research or government administrative needs and in conformance with other designations such as wilderness status.

The plan would restrict vegetation manipulation activities in the King Hill Creek ACEC (amends the Jarbidge RMP) to only those actions which would improve the habitat conditions for redband trout, mountain quail and Columbian sharp-tailed grouse, and in compliance with wilderness status. Close all aquatic habitat in the King Hill Creek ACEC (amends the Jarbidge RMP) to introduction of genetic strains of trout which are not native to the King Hill Creek watershed. Petition the Idaho Department of Fish and Game to prohibit the introduction of genetic strains of trout into King Hill Creek which are not native to the King Hill Creek watershed.

And the plan would close the Fir Grove ACEC to wood products harvesting or collecting.

The preferred alternative would designate 19 caves as significant under the Federal Cave Resources Protection Act of 1988. To protect the caves, 1,913 acres are withdrawn from locatable mineral entry under the 1872 Mining Law, and the area is restricted to no surface occupancy for leasable mineral development and exploration.

The BLM acquired 3,198 acres of state in holdings within five existing Wilderness Study Areas through a land exchange between the BLM and the State of Idaho in 1992. These acquisitions have been inventoried for wilderness characteristics. This RMP recommends adding the following acreage to the existing WSAs: 390 suitable acres to the Gooding City of Rocks West WSA (ID–54–8b) for a total of 6,677 suitable acres, 879 suitable acres to the Gooding City of Rocks East WSA (ID–54–8a) for a total of 13,942 suitable acres, 640 unsuitable acres to the Little City of Rocks WSA (ID–54–5) for a total of 6,515 unsuitable acres, 640 unsuitable acres to the Black Canyon WSA (ID–54–6) for a total of 11,011 unsuitable acres, 640 unsuitable acres to the Deer Creek WSA (ID–54–10) for a total of 8,127 unsuitable acres.

Nine river segments totaling 59.9 miles were determined eligible for consideration to study for inclusion in the Wild and Scenic Rivers System. The RMP completes the study process on the Big Wood River segments (2.1 miles), the Dry Creek segment (4.6 miles) and the King Hill Creek segment (10 miles), and concludes that the segments are not suitable for recommendation to Congress for inclusion in the Wild and Scenic River System. The RMP postpones the study of the Box Canyon (1.2 miles), Snake River Milner segment (8.5 miles), Snake River Murtaugh segment (13 miles), Snake River Hagerman segment (7.2 miles), Snake River King Hill Segment (12.8 miles), and the Vineyard Creek segment (.5 miles) until later. The need for postponement is based on a desire to coordinate the study process with the Idaho Department of Water Resources management plan for the Snake River.

Other elements of the preferred alternative include making 37,000 acres available for disposal from public ownership, stipulating 10,427 acres for no surface occupancy for leasable mineral exploration and development, setting the livestock grazing preference at the nine-year actual use level of 54,751 Animal Unit Months, withdrawing 10,605 acres from mineral entry, closing 3,671 acres and limiting 71,885 acres to motorized vehicle use, identifying 21,936 acres as avoidance and 5,884 acres as exclusion areas to new right-of-way authorization, designation of four Special Recreation Management Areas totaling 35,519 acres, and identifying 5,802 acres as wildlife isolated tracts.

Public participation has occurred throughout the RMP process. A notice of intent was published in the **Federal Register** on September 20, 1990. Since then, several open houses, public meetings, and mailouts were conducted to solicit comments and ideas. Any comments presented throughout the process have been considered.

Dated: March 17, 1994.

**Mary C. Gaylord,**

*District Manager.*

[FR Doc. 94–7098 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–GG–M

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**[NM–030–4320–03]**

## Application for Bureau of Land Management (BLM) Grazing Allotment; Sierra County, NM

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The BLM Las Cruces District is accepting applications for grazing preference on the Nordstrom Trap Allotment. The allotment is located approximately 2 miles west of the Caballo Dam in southern Sierra County, New Mexico. The BLM has determined that sufficient forage exists for up to 108 animal unit months (AUMs). A condition on the new permit is that grazing will occur during the dormant season (November 1 through April 30) each year on the allotment.

**DATES:** Applications for up to 108 AUMs will be considered until May 2, 1994.

**ADDRESSES:** BLM, Las Cruces District Office, 1800 Marquess, Las Cruces, NM 88005.

**FOR FURTHER INFORMATION CONTACT:** Tom Phillips at the BLM Office in Las Cruces, New Mexico or by calling (505) 525–4377.

**SUPPLEMENTARY INFORMATION:** At the present time, there are no permanent waters within the allotment. Applicants must offer base water which is within the service area of the allotment (2 miles), to be considered. Adjudication

of the full 108 AUMs will be contingent upon the location of the offered base water and the applicants' proposed management of the allotment.

The following qualifications are required of applicants:

1. Applicant must be engaged in the livestock business.
2. Applicant must own or control the offered water base property.
3. Applicant must be a citizen of the United States.
4. If the applicant is a group or association—they must be authorized to conduct business in New Mexico, and all members must qualify under No. 3 above.
5. If applicant is a corporation—they must be authorized to conduct business in New Mexico.

In addition, the applicant who receives the grazing preference will be required to accept maintenance responsibilities for the boundary fences and the detention dams on the allotment.

Dated: March 24, 1994.

**Stephanie Hargrove,**

*Assoicate District Manager.*

[FR Doc. 94–7754 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–FB–M

## Minerals Management Service

### Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The justification for the collection of information listed below has been submitted to the Office of Management and Budget for renewed approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the justification and related information may be obtained by contacting Jeane Kalas at 303–231–3046. Comments and suggestions on the requirement should be made directly to the bureau clearance officer at the telephone number listed below and to the Office of Management and Budget, Paperwork Reduction Project (1010–0087), Washington, DC 20503, telephone 202–395–7340.

*Title:* Information Collection Related to Cooperative Agreements.

*Abstract:* States and Indian Tribes may voluntarily request the Director of the Minerals Management Service (MMS) for the opportunity to enter into cooperative agreements allowing the State or Tribe to carry out royalty audits for MMS. The State or Indian Tribe must submit an application to MMS detailing the activities to be undertaken, the term of the agreement, and the estimated budget, and also present evidence that the State or Tribe can meet the standards established by the Secretary of the Interior for audits to be conducted under the agreement. Eligible audit activities are 100 percent reimbursable upon the submission of a quarterly progress report and a voucher summarizing quarterly costs. Annual work plans and budgets are required each year the cooperative agreement is in effect.

*Bureau Form Number:* None.

*Frequency:* On occasion.

*Description of Respondents:* States and Indian Tribes.

*Estimated Completion Time:* 144 hours first year; 72 hours subsequent years.

*Annual Responses:* 2 first-time applicants; 5 established agreements.

*Annual Burden Hours:* 288 hours for applicants; 360 hours for established agreements.

*Bureau Clearance Officer:* Arthur Quintana, 703–787–1101.

Dated: January 19, 1994.

**Donald L. Sant,**

*Acting Associate Director for Royalty Management.*

[FR Doc. 94–7748 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–MR–M

## National Park Service

### Big Thicket National Preserve; Revision of Preserve Boundary at Lance Rosier Unit

Section 1 of the Act of October 11, 1974 (88 Stat. 1254) provides for the establishment of Big Thicket National Preserve and authorizes the United States to accept title to any lands, or interests in lands, located outside the boundaries of the preserve which any private person, organization, or public or private corporation may offer to donate to the United States, if the Secretary finds that such lands would make a significant contribution to the purposes for which the preserve was created and he may administer such lands as part of the preserve. The owners of 8.11 acres of land adjoining and 6.51 acres of land located nearby the Lance Rosier Unit have offered to donate this property for incorporation into the preserve, along with approximately $50,000 in cash. The property consists of three tracts of land. Two of the tracts, denoted as Tract 158–49 and 158–50, contain 6.25 and 1.86 acres, respectively, are located adjacent to the boundary of the Lance Rosier Unit, and have frontage on the south side of FM Road 770. Most of the property would be considered wetlands with a predominance of oak and palmetto, a scattering of other hardwoods, and some large pine. The property has been utilized as a park by the Big Thicket Association since its acquisition by donation from the Hooks family in 1972. A gray granite monolith is located near the northeast corner of the property to commemorate the Hooks family donation. This is the only improvement on the property and will remain as a condition of the donation to the preserve. The remaining tract, denoted as Tract 158–51, contains 6.51 acres and is located on the north side of FM Road 770 and approximately 2,000 feet from Tract 158–50. This tract is landscaped with grass and a variety of mature trees. It is improved with a small outdoor pavilion, eight new recreation vehicle hookups, a new restroom facility, a former high school gymnasium building, a former high school cafeteria building, a small log cabin, and a small two bedroom house. The gymnasium building is in very poor repair and will be demolished. The frame house will be utilized as an opportunity to house a commissioned Park Ranger at the remote Lance Rosier Unit for resource and visitor protection. The cafeteria building houses the present Big Thicket Museum and will be utilized as a visitor information and environmental education center. The other improvements will be utilized in conjunction with this facility. It is considered that the wetlands and biological resources contained in the existing Lance Rosier Park, Tracts 158–49 and 158–50, and the scenic beauty of the landscaped grounds and beneficial improvements located on Tract 158–51 will make a significant contribution to the preserve. The specific lands proposed for addition are described as follows: Tract No. 158–49.

All that certain tract or parcel of land lying and situated in the County of Hardin, Texas, being 6.25 acres, more or less, out of Lot No. 1 of the partition of the West one-half (½) of the Epsey Hart Survey, A–777 and being more particularly described as follows:

Beginning at an iron pin, being the Southwest corner of the lands of grantor, also being on the West line of the Epsey Hart Survey, said corner being North 02°57'21" West 60.00 feet, more or less from a 1½" iron pin, marking the Southwest corner of said Hart Survey, from which a Government marker bears North 86°28'40" East 2.00 feet; said Point of Beginning having Texas Central Zone Grid Coordinates of N 271523.04 and E 3829583.51;

Thence with the West line of said Hart Survey and the boundary line of Big Thicket National Preserve North

02°57'21" West 138.20 feet, more or less, to an iron pin on the South right-of-way line of F.M. Hwy. No. 770;

Thence with the South right-of-way line of said Hwy. North 52°23"57" East 109.78 feet, more or less, to a Hwy. right-of-way marker at the P.C. of a curve;

Thence with the South right-of-way line of said Hwy. being a curve to the right, 100.00 feet from and concentric to the centerline of said Hwy. (the chord of which bears North 57°05'45" East 361.09 feet, more or less,) a Hwy. right-of-way marker;

Thence North 28°12'27" West 49.96 feet, more or less, a broken Hwy. right-of-way marker;

Thence with the South right-of-way line of said Hwy. being a curve to the right 50.00 feet from and concentric to the center line of said Hwy. (the chord of which bears North 67°48'26" East 376.85 feet, more or less.) an iron pin;

Thence South 03°31'25" East 542.90 feet, more or less, to an iron pin;

Thence South 86°28'40" West parallel to and 60 feet perpendicular distance from the South line of the Epsey Hart Survey, 743.10 feet, more or less, to the Point of Beginning.

All bearings are based on Texas State Plane Coordinate System—Central Zone.

Containing 6.25 acres of land, more or less.

**Tract No. 158–50**

All that certain tract or parcel of land lying and situated in the County of Hardin, Texas, being 1.86 acres, more or less, out of Lot No. 1 of the partition of the West one-half (½) of the Epsey Hart Survey, A–777 and being more particularly described as follows:

Beginning at a 1½" iron pin, marking the Southwest corner of the Epsey Hart Survey, from which a Government marker bears North 86°28'40" East 2.00 feet; said Point of Beginning having Texas State Plane Coordinates, Central Zone, North 271,463.13 and East 3,829,586.60;

Thence with the West line of said Hart Survey and the boundary line of Big Thicket National Preserve North 02°57'21" West 60.00 feet, more or less, to an iron pin for the most Westerly Northwest corner of this tract;

Thence North 86°28'40" East, parallel to and 60 feet perpendicular distance from the South line of the Epsey Hart Survey, 743.10 feet, more or less, to a point for an interior corner of this tract;

Thence North 03°31'25" West, parallel to and 60 feet perpendicular distance from the East line of Lot 1 of the Subdivision of the West ½ of the Epsey Hart Survey, 542.90 feet, more or less, to an iron pin on the South right-of-way line of F.M. Hwy. No. 770;

Thence with the South right-of-way line of said Hwy. being a curve to the right 50.00 feet from and concentric to the center line of said Hwy. (the chord of which bears North 75°59'41" East 61.02 feet, more or less,) to an iron pin on the East line of said Lot 1;

Thence with the East line of said Lot 1 South 03°31'25" East 614.00 feet, more or less, to an iron pin on the South line of said Epsey Hart Survey for the Southeast corner of this tract;

Thence with the South line of said Epsey Hart Survey and the Boundary line of Big Thicket National Preserve South 86°28'40" West 803.70 feet, more or less, to the Point of Beginning.

All bearings are based on Texas State Plane Coordinate System—Central Zone.

Containing 1.86 acres of land, more or less.

**Tract No. 158–51**

All that certain tract or parcel of land lying and situated in the county of Hardin, Texas, being 6.51 acres, more or less, out of a subdivision in the East one half (½) of the Epsey Hart Survey, A–777 and the West one half (½) of Lots 24, 25 and 26, Block C, Town of Saratoga in the Mary Hopkins Survey, A–779 and being more particularly described as follows:

Beginning at a ⅝ inch copperweld rod marking the most Westerly Southwest corner of the lands of grantor, also being on the North right-of-way line of F.M. Hwy. No. 770, said Point of Beginning being North 00°38'00" West 796.44 feet, more or less, and South 89°22'00" West 402.60 feet, more or less, from the Southeast corner of the Epsey Hart Survey;

Thence North 00°38'00" West at 70.20 feet, more or less, a concrete monument with a bronze disc marked "H.O. & R. Co. 580" on the North line of Lot No. 4 and the South line of Lot No. 5 of said subdivision in the East one half of said Hart Survey a total distance of 286.82 feet, more or less, to a concrete monument with a bronze disc marked "H.O. & R. Co. 581" on the North line of Lot No. 5 same being the South line of Lot No. 6 out of said subdivision in said Hart Survey;

Thence North 00°08'59" East 430.09 feet, more or less, to a concrete monument for the Northwest corner of this tract;

Thence East 402.60 feet, more or less, to a concrete monument for the Northeast corner of Lot No. 7, also being the most Northerly Northeast corner of this tract;

Thence with the East line of Lot No. 7 and Lot No. 6 South 215.50 feet, more or less, to the Northwest corner of Lot No. 26, Block C in the Town of Saratoga, Texas;

Thence with the North line of said Lot No. 26 and along the South right-of-way line of First Street East 43.40 feet, more or less;

Thence crossing Lots 26, 25 and 24 Block C in the Town of Saratoga South 139.50 feet, more or less, to the South line of said Lot No. 24;

Thence with the South line of said Lot No. 24 West 43.40 feet, more or less, to the Southwest corner of said Lot No. 24 Block C in the Town of Saratoga, said corner also being on the East line of Lot No. 6 of said subdivision out of the East one half (½) of said Epsey Hart Survey;

Thence with the East line of Lot No. 6, Lot No. 5 and Lot No. 4 of said subdivision out of the East one half (½) of Epsey Survey and also with the West line of Block C in the Town of Saratoga South 383.00 feet, more or less to a sucker rod on the North right-of-way line of F.M. Hwy. No. 770 for the most Southeasterly corner of this tract;

Thence with the North right-of-way of said Hwy. North 82°27'00" West 16.41 feet, more or less, to the Southeast corner of the lands, now or formerly, of Bernice Britt;

Thence with the dividing line between the lands of grantor and the lands of said Bernice Britt as follows: North 00°23'00" West 141.11 feet, more or less, to a wood stake; South 89°16'00" West 94.00 feet, more or less, to a wood stake; and South 00°47'00" East 127.56 feet, more or less, to a wood stake on the North right-of-way line of F.M. Hwy. No. 770;

Thence with the North right-of-way line of said highway North 85°06'00" West 97.80 feet, more or less, to a ⅝ inch copperweld rod on right-of-way, which point is in a four (4) degree curve to the left and having a central angle of 10°35'00" degree;

Thence in a westerly direction with said North right-of-way line being a portion of said four (4) degree curve to the left, the chord which is North 89°38'15" West 72.62 feet, more or less, to a State Highway Department concrete monument at the P.T. of said curve;

Thence continuing with said North right-of-way line South 88°57'15" West 121.05 feet, more or less, to the Point of Beginning.

Containing 6.51 acres of land, more or less.

Therefore, notice is hereby given that in accordance with the Act of October 11, 1974, the boundary of the Lance Rosier Unit of Big Thicket National Preserve is revised as described above.

and as shown on Big Thicket National Preserve land acquisition status map, segment 158. This map is on file and available for inspection in the Office of the National Park Service, Department of the Interior; the Office of the Southwest Region, National Park Service; and the office of the Superintendent, Big Thicket National Preserve.

Dated: January 13, 1994.

**John E. Cook,**

*Regional Director, Southwest Region.*

[FR Doc. 94–7738 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–70–P

## Big Thicket National Preserve; Revision of Preserve Boundary at Beech Creek Unit

Section 2 of the Act of July 1, 1993, (107 Stat. 229) provides that after advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, in writing, the Secretary of the Interior may make minor revisions of the boundaries of the preserve when necessary by publication of a revised drawing or other boundary description in the **Federal Register**. It is desired to make such a minor revision in the boundary of the 5,089 acre Beech Creek Unit by adding a 99.92 acre parcel located adjacent to the northwest portion of the unit. This addition will serve to complete the capture of a significant tributary of Beech Creek entirely within the unit. It will also add the final area of substantial wetlands that adjoin the unit. The owner, Champion International Corporation, has made a formal request for the Government to acquire this property because they have been unable, over a period of 15 years, to gain legal access to the tract to manage and harvest the timber as they do their other properties. It is considered that the wetlands and biological resources contained within this 99.92 acre addition will make a worthwhile contribution to the preserve. The specific lands proposed for addition are described as follows:

**Tract No. 102–09**

All that certain tract or parcel of land lying and situate in the County of Tyler, Texas, being 99.92 acres, more or less, out of the William Prescott Survey, A–517, and being more particularly described as follows:

Beginning at a concrete monument marking the Northeast corner of the William Prescott Survey, A–517, from which a Government marker bears South 03°44'48" East 2.00 feet, said Point of Beginning having Texas State Plane Coordinates, Central Zone, North 451,465.20 and East 3,921,202.40 for the Northeast corner of this tract;

Thence with the East line of the William Prescott Survey, A–517, South 03°44'48" East a distance of 1,557.20 feet to a concrete monument marking the Northwest corner of the W. C. Hooker Survey A–360 and the Southwest corner of the John B. Dodd, Survey, A–215, from which a Government marker bears South 04°21'12" East 2.00 feet;

Thence continuing with the East line of the said Prescott Survey, South 04°21'12" East 202.72 feet to a concrete monument marking the Southwest corner of Lot 1 out of said Dodd Survey, from which a Government marker bears North 86°37'55" East 2.00 feet;

Thence with the Boundary Line of Big Thicket National Preserve and continuing with the East line of said Prescott Survey, South 04°21'12" East 497.27 feet to a Point for the Southeast corner of this tract;

Thence continuing with said Boundary Line South 86°02'03" West 1930.95 feet to a Point for the Southwest corner of this tract;

Thence continuing with said Boundary Line North 03°56'05" West 2,257.16 to an iron pipe on the North line of the said Prescott Survey, for the Northwest corner of this tract, from which a Government marker bears South 86°02'37" West 2.00 feet;

Thence with the North line of said Prescott Survey, North 86°02'03" East at 1,254.84 feet a Government marker, a total distance of 1,930.95 feet to the Point of Beginning.

All bearings are based on Texas State Plane Coordinate System—Central Zone.

Containing 99.92 acres of land, more or less. Therefore, notice is hereby given that in accordance with the Act of July 1, 1993, the boundary of the Beech Creek Unit of Big Thicket National Preserve is revised as described above, and as shown on Big Thicket National Preserve land acquisition status map, segment 102. This map is on file and available for inspection in the office of the National Park Service, Department of the Interior; the Office of the Southwest Region, National Park Service; and the Office of the Superintendent, Big Thicket National Preserve.

Dated: January 13, 1994.

**John E. Cook,**

*Regional Director, Southwest Region.*

[FR Doc. 94–7741 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–70–P–M

## Draft Environmental Impact Statement on the Development Concept Plan for the Brooks River Area, Katmai National Park and Preserve, AK

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of a draft environmental impact statement (EIS) on the development concept plan for the Brooks River Area of Katmai National Park and Preserve.

**DATES:** Comments on the draft EIS should be received no later than June 30, 1994. Dates for the public meetings regarding the draft EIS will be May 16 in King Salmon, Alaska and May 18 in Anchorage, Alaska.

**ADDRESSES:** Comments on the draft EIS should be submitted to the Superintendent, Katmai National Park and Preserve, P.O. Box 7, King Salmon, Alaska 99613, phone (907) 246–3305. Public meetings will be held in the FAA Community Service Facility, King Salmon, Alaska and in the auditorium of the Alaska Public Lands Information Center, 605 W. 4th Avenue, suite 105, Anchorage, Alaska, phone (907) 271–2737. Public reading copies of the draft EIS will be available for review in the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, (telephone 202–208–6843).

Alaska Regional Office, National Park Service, 2525 Gambell Street, room 404, Anchorage, Alaska 99503–2892, (telephone 907–257–2647).

Headquarters, Katmai National Park and Preserve, P.O. Box 7, King Salmon, Alaska 99613, (telephone 907–246–3305).

A limited number of copies of the statement are available on request from: Bill Pierce, Superintendent, Katmai National Park and Preserve, P.O. Box 7, King Salmon, Alaska 99613, phone (907) 246–3305 or Regional Director, National Park Service, 2525 Gambell Street, room 404, Anchorage, Alaska 99503–2892, phone (907) 257–2647.

**SUPPLEMENTARY INFORMATION:** The development concept plan proposes to reorient management, use and development of the Brooks River Area in Katmai National Park and Preserve to more adequately preserve and interpret the area's globally significant Alaska brown bear viewing opportunities and critical brown bear habitat, nationally significant cultural resources and scenic values, and world-class sport fishing opportunities. Major features of the proposal (alternative 2) include removal

of all NPS and concessions facilities that are north of Brooks River, designation of the north side of the river as a people-free zone, construction of new visitor facilities (visitor center, lodge, campground, employee housing, maintenance facility) on the Beaver Pond Terrace south of the river, establishment of day use limits for the Brooks River Area below the July 1992 average, recommendation of temporary closures on reaches of Brooks River during times of intense use by bears, and improvement of the area's interpretation program. About 105 acres of undisturbed habitat, mostly white spruce woodland, would be disturbed to various degrees by development. About 3.5 acres of disturbed land would be restored to natural conditions by the removal of existing facilities.

Alternatives to the proposal include the no-action alternative, alternative 1 (minimum requirements), alternative 3 (Iliuk Moraine Terrace), and alternative 4 (day use only). The no-action alternative would continue the status quo visitation and management of the Brooks River Area. Alternative 1 would retain the present Brooks Camp facilities while upgrading existing resource protection programs, add four significant structures north of Brooks River, and establish day use limits slightly below the 1992 average. Alternative 3 would remove all facilities north of Brooks River and relocate Brooks Camp on a larger scale to the terrace above Iliuk Moraine, two miles south of Brooks River. Brooks River would become a day use area only. Alternative 4 would remove all facilities north of the river, and no overnight facilities would be available at Brooks River. Brooks River would become a day use area only.

The responsible official for a decision on the proposed action is the Regional Director, Alaska Region, National Park Service.

**Paul Anderson,**

*Deputy Regional Director.*

[FR Doc. 94–7743 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–70–P

## Agenda for the May 5, 1994, Meeting of the Advisory Commission of the San Francisco Maritime National Historical Park

**Public Meeting, Fort Mason, Building A 9 a.m.–4 p.m.**

9 am Welcome—William G. Thomas, Superintendent
Opening Remarks—Patrick Flanagan, Chairman
Old Business
Approval of Minutes
9:15 am Update—Museum Accreditation, San Francisco Maritime National Historical Park, Marc Hayman, Chief, Interpretation and Resource Management
Public Questions and comments
9:30 am Volunteers in Parks—Worker's Compensation Issues
National Park Service, Western Region, Chris Neilson, Interpretive Specialist
Public Questions and Comments
10 am General Management Plan—Update, William G. Thomas, Superintendent
Public Questions and Comments
10:30 am Jeremiah O'Brien—Update, Gunnar Lundeberg, Advisory Commissioner
Public Questions and Comments
11 am Break
11:15 am Jeremiah O'Brien—continued
11:45 am Ferryboat EUREKA—Restoration Update, Ewen MacLean, Ships Manager
Public Question and Comments
12 pm Lunch
1 pm Chairman's Report, Patrick Flanagan, Chairman
Public Question and Comments
3:30 pm Goals for Next Meeting
Commission Questions and Comments
Public Questions and Comments
4 pm Adjournment

Dated: March 24, 1994.

**Phil Ward,**

*Acting Regional Director, Western Region.*

[FR Doc. 94–7744 Filed 3–31–94; 8:45 am]

BILLING CODE 4310–70–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 22–55]**

### Peanut Butter and Peanut Paste

**AGENCY:** United States International Trade Commission.

**ACTION:** Rescheduling of public hearing.

**SUMMARY:** The Commission has rescheduled to May 19, 1994, from May 12, 1994, its public hearing in this investigation pursuant to requests for a change in hearing date from Nutco, Inc. and the National Peanut Growers Group.

The schedule for filing briefs has been revised as follows: the deadline for filing prehearing briefs is May 9, 1994; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 19, 1994; and the deadline for filing posthearing briefs is May 26, 1994.

**EFFECTIVE DATE:** March 25, 1994.

**FOR FURTHER INFORMATION CONTACT:** Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

**SUPPLEMENTARY INFORMATION:** The subject investigation was instituted by the Commission on January 18, 1994. Notice of the investigation and the schedule for its conduct, including the April 28 hearing, was published in the **Federal Register** of January 26, 1994 (59 F.R. 3734). Notice of the rescheduling of the public hearing to May 12 was published in the **Federal Register** of March 24, 1994 (59 FR 13999).

For further information concerning the conduct of this investigation and rules of general application see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 204, (19 CFR part 204).

This notice is published pursuant to section 204 of the Commission's rules (19 CFR 204.4).

Issued: March 25, 1994.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 94–7747 Filed 3–31–94; 8:45 am]

BILLING CODE 7020–02–P

## INTERSTATE COMMERCE COMMISSION

**[No. 41051 and 41053]**

### Burlington Northern Railroad Co.; Petition for Declaratory Order; M.C. Terminals, Inc. and M.C. Terminals, Inc.; Petition for Declaratory Order; Burlington Northern Railroad Co.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of institution of declaratory order proceeding.

**SUMMARY:** Burlington Northern Railroad Company (BN) and M.C. Terminals, Inc. (MCT), have filed separate petitions seeking declaratory orders [1] to resolve a controversy that has arisen with respect to BN's common carrier obligation to deliver rail cars to a non-waterfront marine terminal facility operated by MCT in Seattle, WA. The declaratory relief sought is necessary to resolve an issue that the parties have litigated in Federal district court and before the Federal Maritime Commission (FMC). Because both petitions seek resolution

[1] BN filed its petition on July 20, 1993. MCT filed its petition on July 26, 1993, and tendered an amended petition on October 7, 1993.

of the extent of BN's duty of delivery to MCT and whether BN has fulfilled that duty, they will be consolidated for disposition in a single decision. The petitions present a controversy sufficient to warrant the institution of a proceeding under 5 U.S.C. 554(e) and 49 U.S.C. 10321, and the Commission is instituting such a proceeding.

**DATES:** Any person interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to do so by April 11, 1994. A list of interested parties then will be compiled and served. Each petitioner will have 10 days after the service date of the list to serve each party on the list with a copy of its petition. Other parties will have 30 days after the service date of the service list to submit comments to the Commission and to all parties. All parties will have 50 days after the service date of the service list to reply. All parties must send a copy of all comments and replies to each other party of record. The exact dates will be specified in the notice accompanying the service list.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon (202) 927–5610 (TDD for hearing impaired: (202) 927–5721)

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5271).

Decided: March 25, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 94–7814 Filed 3–31–94; 8:45 am]

BILLING CODE 7035–01–P

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[Finance Docket No. 32416]

## The Cincinnati Terminal Railway Co.; Acquisition and Operation Exemption—Consolidated Rail Corp.

The Cincinnati Terminal Railway Co. (CTR), a noncarrier,[1] has filed a notice of exemption to acquire approximately 16.25 miles of rail line owned by Consolidated Rail Corporation (Conrail) as follows: (1) The Oasis Secondary line between milepost 0.4 in Cincinnati, OH and milepost 7.0 in Fairfax, OH; (2) the Oasis Branch line between milepost 7.0, near Fairfax and milepost 16.4 in Evendale, OH; and (3) the Mill Connecting line between milepost 16.4 and its connection to Conrail's Cincinnati line in Evendale, a distance of .25 mile. These lines are collectively known as the Oasis Branch.[2]

As part of this transaction, CTR will grant Conrail incidental trackage rights for overhead service from milepost 15.8 to milepost 16.4, and over the Mill Connecting line, to preserve Conrail service to shippers located on a non-contiguous Norfolk Southern line on which Conrail has local operating rights. The parties intended to consummate the transaction on or about March 24, 1994.

Any comments must be filed with the Commission and served on: Robert L. Calhoun, 1025 Connecticut Ave., NW., suite 1000, Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 25, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

**Sidney L. Strickland, Jr.,**

*Secretary.*

[FR Doc. 94–7813 Filed 03–31–94; 8:45 am]

BILLING CODE 7035–01–P

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## JUDICIAL CONFERENCE OF THE UNITED STATES

### Hearing of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

**AGENCY:** Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

**ACTION:** Notice of change of open hearing location, date, and time.

**SUMMARY:** In the **Federal Register** of December 21, 1993 (58 FR 67420), a public hearing was originally scheduled to be held in Los Angeles, California on April 4, 1994. The hearing location, date, and time have been changed to Washington, DC on April 18, 1994, at 8:30 a.m. It will take place at the Thurgood Marshall Federal Judiciary Building, Fourth Floor Agency Conference Room, One Columbus Circle, NE.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC., telephone (202) 273–1820.

Dated: March 28, 1994.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 94–8025 Filed 3–31–94; 8:45 am]

BILLING CODE 2210–01–M

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 7, 1994, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Cocaine (9041) | II |
| Codeine (9050) | II |
| Methadone (9250) | II |
| Morphine (9300) | II |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

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[1] CTR is a wholly-owned subsidiary of Indiana & Ohio Rail Corp. (IORC). IORC presently controls Indiana and Ohio Railway Company and Indiana and Ohio Railroad Company (Finance Docket No. 30961), Indiana & Ohio Eastern Railroad, Inc. (Finance Docket No. 31019), and Indiana & Ohio Central Railroad, Inc. (Finance Docket No. 31073).

[2] The lines to be acquired by CTR directly connect and will interchange traffic with another IORC subsidiary, The Indiana & Ohio Railway Company and, as such, IORC will not be able to invoke the continuance in control class exemption at 49 CFR 1180.2(d)(2) to retain control of CTR once it becomes a carrier.

To avoid an unlawful control violation, CTR states that its voting stock was placed in a voting trust pursuant to 49 CFR 1013.1 *et seq.*, prior to its completion of the acquisition. IORC will be filing a petition for exemption under 49 U.S.C. 10505 and 11343, seeking an exemption which would permit it to dissolve the voting trust and to assume control of CTR, in Finance Docket No. 32420.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7733 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Registration

By Notice dated October 28, 1993, and published in the **Federal Register** on November 4, 1993, (58 FR 58878), Ciba-Geigy Corporation, Pharmaceutical Division, Regulatory Compliance, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7728 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 14, 1994, Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| Glutethimide (2550) | II |
| Methadone (9250) | II |
| Methadone-intermediate (9254) | II |
| Dextropropoxyphene, bulk (non-dosage forms) (9273). | II |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7734 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on November 8, 1993, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| 2,5-Dimethoxyamphetamine (7396). | I |
| Methylphenidate (1724) | II |
| Hydromorphone (9150) | II |
| Diphenoxylate (9170) | II |
| Meperidine (9230) | II |
| Morphine (9300) | II |
| Alfentanil (9737) | II |
| Sufentanil (9740) | II |
| Carfentanil (9743) | II |
| Fentanyl (9801) | II |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

Dated: March 28, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7812 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 3, 1993, Knight Seed Company, Inc., 151 W. 126th Street, Burnsville, Minnesota 55337, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360), a basic class of controlled substance listed in Schedule I.

This application is exclusively for the importation of marijuana seed which will be rendered non-viable and used as bird seed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted

in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7729 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 21, 1994, Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| 4-Methoxyamphetamine (7411) | I |
| Methamphetamine (1105) | II |
| Phenylacetone (8501) | II |

Any other such applicant and any person who is presently registered with DEA to manufacturer such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7735 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 14, 1994, MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Methylphenidate (1724) | II |
| Diphenoxylate (9170) | II |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7731 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on February 10, 1994, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Cocaine (9041) | II |
| Benzoylecgonine (9180) | II |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7732 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 10, 1994, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|---|---|
| Coca Leaves (9040) | II |
| Cocaine (9041) | II |
| Benzoylecgonine (9180) | II |

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 2, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 21, 1994.

**Gene R. Haislip,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 94–7730 Filed 3–31–94; 8:45 am]

BILLING CODE 4410–09–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

**Background**

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

**List of Recordkeeping/Reporting Requirements Under Review**

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

**Comments and Questions**

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

*Extension*

Veterans' Employment and Training Service
1293–0005; VETS 100
Annually
Businesses or other for-profit; small businesses or organizations 168,500 respondents; 30 minutes per response; 84,250 total hours; 1 form

The Veterans' Annual Report (VETS 100), Title 38 U.S.C. 4212(d), requires collection of information from entities holding contracts of $10,000 or more with Federal departments or agencies covering (a) number of special disabled and Vietnam-era veterans in their work force by job category and hiring location and (b) the total number of employees hired during the report period and of those, the number of special disabled and Vietnam-era veterans.

*Extension*

Employment Standards Administration
Request for Earnings Information
1215–0112; LS–426
On occasion
Individuals or households
1,900 respondents; 15 minutes per response; 475 total hours; 1 form

The report gathers information regarding an employee's average weekly wage. This information is required for determination of compensation benefits in accordance with Section 10 of the Longshore and Harbor Workers' Compensation Act.

Signed at Washington, DC, this 29th day of March, 1994.

**Kenneth A. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 94–7836 Filed 3–31–94; 8:45 am]

BILLING CODE 4510–79–P

## Glass Ceiling Commission; Open Meeting

**SUMMARY:** Pursuant to Title II of the Civil Rights Act of 1991 (Pub. L. 102–166) and section 9 of the Federal Advisory Committee Act (FACA) (Pub. L. 92–462, 5 U.S.C. app. II) a Notice of establishment of the Glass Ceiling Commission was published in the**Federal Register** on March 30, 1992 (57 FR 10776). Pursuant to section 10(a) of FACA, this is to announce a meeting of the Commission which is to take place on Thursday, April 21, 1994. The purpose of the Commission is to, among other things, focus greater attention on the importance of eliminating artificial barriers to the advancement of minorities and women to management and decisionmaking positions in business. The Commission has the practical task of: (a) Conducting basic research into practices, policies, and manner in which management and decisionmaking positions in business are filled; (b) conducting comparative research of businesses and industries in which minorities and women are promoted or are not promoted; and (c) recommending measures to enhance opportunities for and the elimination of artificial barriers to the advancement of minorities and women to management and decisionmaking positions.

**TIME AND PLACE:** The meeting will be held on Thursday, April 21, 1994 from 11 a.m. until 6 p.m. at the Sheraton Hotel, 777 St. Clair Avenue, Cleveland, Ohio 44114.

**AGENDA:** The agenda for the meeting is as follows:

Introduction of New Commissioner
Discussion of Future Hearings

Review of Hearing Materials
Discussion of Research
Discussion of Perkins-Dole Award

**PUBLIC PARTICIPATION:** The meeting will be open to the public. Seating will be available on a first-come, first-served basis. Seats will be reserved for the media. Disabled individuals should contact the Commission no later than April 7, 1994, if special accommodations are needed. Individuals or organizations wishing to submit written statements should send twenty (20) copies to Ms. Joyce D. Miller, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW., room S–2233, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Ms. Joyce D. Miller, Executive Director, Glass Ceiling Commission, U.S. Department of Labor, 200 Constitution Avenue, NW., room S–2233, Washington, DC 20210, (202) 219–7342.

Signed at Washington, DC, this 28th day of March, 1994.

**Robert B. Reich,**

*Secretary of Labor.*

[FR Doc. 94–7837 Filed 3–31–93; 8:45 am]

BILLING CODE 4510–23–M

## Employment Standards Administration

### Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

### New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

*Volume I*

New York
NY940060 (Apr. 1, 1994)
NY940061 (Apr. 1, 1994)

*Volume III*

Tennessee
TN940052 (Apr. 1, 1994)

*Volume IV*

Minnesota
MN940047 (Apr. 1, 1994)
MN940048 (Apr. 1, 1994)
MN940049 (Apr. 1, 1994)
MN940050 (Apr. 1, 1994)
MN940051 (Apr. 1, 1994)
MN940052 (Apr. 1, 1994)
MN940053 (Apr. 1, 1994)
MN940054 (Apr. 1, 1994)
MN940055 (Apr. 1, 1994)
MN940056 (Apr. 1, 1994)
MN940057 (Apr. 1, 1994)

Ohio
OH940015 (Apr. 1, 1994)
OH940020 (Apr. 1, 1994)
OH940023 (Apr. 1, 1994)
OH940025 (Apr. 1, 1994)
OH940026 (Apr. 1, 1994)
OH940027 (Apr. 1, 1994)
OH940030 (Apr. 1, 1994)
OH940031 (Apr. 1, 1994)
OH940037 (Apr. 1, 1994)

*Volume V*

Iowa
IA940060 (Apr. 1, 1994)
IA940061 (Apr. 1, 1994)
IA940062 (Apr. 1, 1994)
IA940063 (Apr. 1, 1994)
IA940064 (Apr. 1, 1994)
IA940065 (Apr. 1, 1994)
IA940066 (Apr. 1, 1994)
IA940067 (Apr. 1, 1994)

Missouri
MO940046 (Apr. 1, 1994)
MO940047 (Apr. 1, 1994)
MO940048 (Apr. 1, 1994)
MO940049 (Apr. 1, 1994)
MO940050 (Apr. 1, 1994)

*Volume VI*

North Dakota
ND940006 (Apr. 1, 1994)
ND940007 (Apr. 1, 1994)
ND940008 (Apr. 1, 1994)
ND940009 (Apr. 1, 1994)
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ND940032 (Apr. 1, 1994)
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ND940042 (Apr. 1, 1994)
ND940043 (Apr. 1, 1994)
ND940044 (Apr. 1, 1994)
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South Dakota
SD940005 (Apr. 1, 1994)
SD940006 (Apr. 1, 1994)
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SD940040 (Apr. 1, 1994)
SD940041 (Apr. 1, 1994)
SD940042 (Apr. 1, 1994)
SD940043 (Apr. 1, 1994)

**Modification to General Wage Determination Decisions**

The numbers of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

Massachusetts
MA940009 (Feb. 11, 1994).
MA940010 (Feb. 11, 1994).
Maine
ME940013 (Feb. 11, 1994).
Rhode Island
RI940001 (Feb. 11, 1994).
RI940002 (Feb. 11, 1994).

*Volume II*

Delaware
DE940002 (Feb. 11, 1994).
DE940004 (Feb. 11, 1994).
DE940005 (Feb. 11, 1994)
DE940009 (Feb. 11, 1994).
Pennsylvania
PA940026 (Feb. 11, 1994).

*Volume III*

Alabama
AL940034 (Mar. 25, 1994).
AL940035 (Mar. 25, 1994).
AL940052 (Mar. 25, 1994).
Georgia
GA940004 (Feb. 11, 1994).
GA940039 (Feb. 11, 1994).
Kentucky
KY940025 (Feb. 11, 1994).
KY940029 (Feb. 11, 1994).
Tennessee
TN940026 (Feb. 11, 1994).
TN940050 (Feb. 11, 1994).

*Volume IV*

Indiana
IN940006 (Feb. 11, 1994).
Minnesota
MN940007 (Feb. 11, 1994).
MN940008 (Feb. 11, 1994).
MN940012 (Feb. 11, 1994).
MN940015 (Feb. 11, 1994).
MN940027 (Mar. 25, 1994).
MN940031 (Mar. 25, 1994).
MN940035 (Mar. 25, 1994).
MN940039 (Mar. 25, 1994).
Wisconsin
WI940001 (Feb. 11, 1994).
WI940004 (Feb. 11, 1994).
WI940008 (Feb. 11, 1994).
WI940009 (Feb. 11, 1994).
WI940010 (Feb. 11, 1994).
WI940019 (Feb. 11, 1994).

*Volume V*

Arkansas
AR940007 (Feb. 11, 1994).
Missouri
MO940005 (Feb. 11, 1994).
MO940006 (Feb. 11, 1994).
MO940007 (Feb. 11, 1994).
MO940011 (Feb. 11, 1994).
MO940043 (Feb. 11, 1994).
Nebraska
NE940038 (Feb. 11, 1994).
New Mexico
NM940001 (Feb. 11, 1994).
Texas
TX940001 (Feb. 11, 1994).

*Volume VI*

Alaska
AK940001 (Feb. 11, 1994).
AK940002 (Feb. 11, 1994).
Utah
UT940009 (Feb. 11, 1994).

**General Wage Determination Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 25th day of March 1994.

**Alan L. Moss,**

*Director, Division of Wage Determinations.*

[FR Doc. 94–7576 Filed 3–31–94; 8:45 am]

BILLING CODE 4510–27–M

## Occupational Safety and Health Administration

## Connecticut State Standards; Notice of Approval

**1. Background**

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR part 1902. On November 3, 1978, notice was published in the **Federal Register** (43 FR 51390) of the approval of the Connecticut Public Sector State Plan and the adoption of subpart E to part 1956 containing the decision.

The Connecticut Public Sector only State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing an intent to amend the State Plan by adopting the standard(s) in the Connecticut Law Journal.

b. Approval by the Commissioner of Labor and the Attorney General of the State of Connecticut.

c. Approval by the Legislative Regulation Review Committee, State of Connecticut.

d. Filing in the Office of the Secretary of State, State of Connecticut.

e. Publishing a notice that the State Plan is amended by adopting the standard(s) in the Connecticut Law Journal.

The Connecticut Public Sector State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6, of the Act. By letter dated February 14, 1994, from Commissioner Ronald F. Petronella, Connecticut Department of Labor, to John B. Miles, Jr., Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR parts 1910 and 1926 and subsequent amendments thereto, as described below:

(1) Addition to 29 CFR part 1910, Permit-Required Confined Spaces for General Industry; Final Rule (58 FR 4549, dated 1/14/93).

(2) Correction to 29 CFR part 1910, Permit-Required Confined Spaces; Corrections to Rule (58 FR 34845, dated 6/29/93).

(3) Addition to 29 CFR part 1926, Lead Exposure in Construction; Interim Final Rule (58 FR 26627, dated 5/4/93).

These standards became effective on December 22, 1993, and January 27, 1994, pursuant to section 31–372 of State Law.

**2. Decision**

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State Standards are identical to the Federal standards and accordingly are approved.

**3. Location of Supplement for Inspection and Copying**

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts, 02114; Office of the Commissioner, State of Connecticut, Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109, and the OSHA Office of State Programs, room N–3476, Third Street and Constitution Avenue, NW., Washington, DC 20210.

**4. Public Participation**

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut Public Sector Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment, and further public participation would be repetitious.

This decision is effective April 1, 1994.

**Authority:** Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 18th day of March 1994.

**John B. Miles, Jr.,**

*Regional Administrator.*

[FR Doc. 94–7838 Filed 3–31–94; 8:45 am]

BILLING CODE 4510–26–M

## NATIONAL SCIENCE FOUNDATION

### Special Emphasis Panel in Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

*Name:* Special Emphasis Panel in Astronomical Sciences.

*Date and Time:* April 19, 1994 8:30 a.m. until 5 p.m.

*Place:* National Science Foundation, 4201 Wilson Boulevard, room 1060, Arlington, VA 22230.

*Type of Meeting:* Closed.

*Contact Person:* James P. Wright, Program Director, National Science Foundation, 4201 Wilson Boulevard, room 1030, Arlington, VA 22230. Telephone: (703) 306–1820.

*Purpose of Meeting:* To provide advice and recommendations concerning nominations submitted to NSF for NSF Young Investigator Awards.

*Agenda:* To review and evaluate unsolicited nominations submitted to the Division of Astronomical Sciences.

*Reason for Closing:* The nominations being reviewed include information of a proprietary or confidential nature, including technical information and personal information concerning individuals associated with the nominations. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 28, 1994.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 94–7828 Filed 3–31–94; 8:45 am]

BILLING CODE 7555–01–M

### Special Emphasis Panel in Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

*Name:* Special Emphasis Panel in Astronomical Sciences.

*Date and Time:* April 20, 1994 9 a.m. until 5 p.m.

*Place:* National Science Foundation, 4201 Wilson Boulevard, room 1060, Arlington, VA 22230.

*Type of Meeting:* Open.

*Contact Person:* James P. Wright, Program Director, National Science Foundation, 4201 Wilson Boulevard, room 1030, Arlington, VA 22230. Telephone: (703) 306–1820.

*Minutes:* May be obtained from contact person listed above.

*Purpose of Meeting:* To provide advice to the Division of Astronomical Sciences on current, and possible future, education projects in the astronomical sciences.

*Agenda: All Day:*

Discussions on current, and possible future, education projects in the astronomical sciences.

Dated: March 28, 1994.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 94–7829 Filed 3–31–94; 8:45 am]

BILLING CODE 7555–01–M

### Special Emphasis Panel in Chemical and Thermal Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name:* Special Emphasis Panel in Chemical and Thermal Systems.

*Date and Time:* April 29, 1994; 8:30 a.m. to 5 p.m.

*Place:* NSF, room 530, 4201 Wilson Blvd., Arlington, VA.

*Agenda:* Review and Evaluate nominations for the NSF Research Equipment Grants Program.

*Contact Person:* Dr. Milton Linevsky, Program Directors (703) 306–1371.

*Purpose of Meeting:* To provide advice and recommendation to the Division of Chemical and Thermal Systems concerning proposals submitted to the Division for financial support.

*Type of Meeting:* Closed.

*Reason for Closing:* The nominations and proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the nominations and proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 28, 1994.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 94–7831 Filed 3–31–94; 8:45 am]

BILLING CODE 7555–01–M

## Advisory Panel for Science, Technology and Society; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings.

*Name:* Advisory Panel for Science, Technology and Society (#1760).

*Date and Time:* April 21–23, 1994, 9 a.m.–5 p.m.

*Place:* Holiday Inn, Crowne Plaza, 6th and Seneca, Seattle, Washington.

*Contact Person:* Ronald Overmann, Program Director for Science and Technology Studies, Room 995, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1743 Ext. 6989.

*Agenda:* To review and evaluate science and technology studies proposals as part of the selection process for awards.

*Date and Time:* May 12–13, 1994, 8:30 a.m.–5 p.m.

*Place:* National Science Foundation, Room 380, 4201 Wilson Boulevard, Arlington, Virginia 22230.

*Contact Person:* Rachelle Hollander, Program Director for Ethics and Values Studies, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1743 Ext. 6991.

*Agenda:* To review and evaluate ethics and values studies proposals as part of the selection process for awards.

*Type of Meetings:* Closed.

*Purpose of Meetings:* To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), 4 and (6) of the Government in the Sunshine Act.

Dated: March 28, 1994.

**M. Rebecca Winkler,**

*Committee Management Officer.*

[FR Doc. 94–7832 Filed 3–31–94; 8:45 am]

BILLING CODE 7555–01–M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes; Renewal Notice

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** This notice is to announce the renewal of the Advisory Committee on the Medical Uses of Isotopes for a period of two years.

**SUPPLEMENTARY INFORMATION:** The Nuclear Regulatory Commission has determined that renewal of the charter for the Advisory Committee on the Medical Uses of Isotopes for the two year period commencing on April 4, 1994, is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the Advisory Committee on the Medical Uses of Isotopes is to provide advice to the U.S. Nuclear Regulatory Commission (NRC), with respect to the development of standards and criteria for regulating and licensing uses of radionuclides in human subjects. Members of this Committee have demonstrated professional qualifications and expertise in both scientific and non-scientific disciplines including nuclear medicine; nuclear cardiology; radiation therapy; medical physics; radiopharmacy; state medical regulation; patient's rights and care; health care administration; medical research; and Food and Drug Administration regulation.

**FOR FURTHER INFORMATION PLEASE CONTACT:** Sally L. Merchant, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 504–2637.

Dated: March 28, 1994.

**John C. Hoyle,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 94–7797 Filed 3–31–94; 8:45 am]

BILLING CODE 7590–01–M

**[Docket No. 50–286]**

### Power Authority of the State of New York; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DRP–64 issued to the Power Authority of the State of New York (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 3 (Indian Point 3) located in Westchester County, New York.

The proposed amendment would revise Section 6.0 (Administrative Controls). Specifically, the plant staff requirement (specified in Technical Specification (TS) 6.2.2.i) would be revised to temporarily allow the operations manager to have held a senior reactor operator (SRO) license at a pressurized water reactor (PWR) other than Indian Point 3. The TS currently requires the operations manager to have or have held an SRO license at Indian Point 3 only. This proposed change is needed to allow management changes at the facility in an effort to improve overall performance. The proposed changes would be in effect for a period ending 3 years after restart from the 1993/1994 Performance Improvement Outage.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the criteria of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* The proposed change does not involve an increase in the probability or consequences of a previously analyzed accident because licensed and non-licensed operator activities will continue to be directed by an individual who is required to maintain a current SRO [senior reactor operator] license. The proposed change to Technical Specification 6.2.2.i in conjunction

with existing Technical Specification 6.3.1 ensure that the Operations Manager will be a knowledgeable and qualified individual.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they do not affect plant configuration or plant design. The Assistant Operations Manager, who is responsible for shift activities is still required to maintain a knowledge of IP3 [Indian Point 3] plant design and operations through [having and maintaining an IP3 license by] requalification training. The proposed change to Technical Specification 6.2.2.i in conjunction with existing Technical Specification 6.3.1 ensure that the Operations Manager will be a knowledgeable and qualified individual.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* The proposed amendment does not involve a significant reduction in a margin of safety because the Assistant Operations Manager is still required to maintain a current SRO license. This ensures that shift activities are directed by an individual holding an SRO license. The proposed change to Technical Specification 6.2.2.i in conjunction with existing Technical Specification 6.3.1 ensure that the Operations Manager will be a knowledgeable and qualified individual.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 3, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 24, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Rockville, Maryland, this 28th day of March.

For the Nuclear Regulatory Commission.

**Nicola F. Conicella,**

*Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 94–7798 Filed 3–31–94; 8:45 am]

BILLING CODE 7590–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–33817; File No. SR–Amex–93–41]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Limitation of Exchange Liability for Negligent Conduct

March 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 23, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend rules 902C and 1003 to limit the Exchange's liability in connection with its administration of proprietary indexes and products. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

In the early 1980s the Exchange began trading options on a number of proprietary indexes that it developed—two broad-based indexes (the Major Market Index and the Institutional Index) and two narrow-based indexes (the Computer Technology and Oil Indexes). In the last several years, the Exchange has developed additional sector indexes (*e.g.*, the Pharmaceutical and Biotechnology Indexes) and acts as the calculation agent for certain third party indexes (the Morgan Stanley Consumer and Cyclical Indexes). The Exchange has also developed broad market indexes on two foreign markets (the Japan Index and the Amex Hong Kong 30 Index). Other indexes have recently been developed and are awaiting approval by the SEC.[1]

The Exchange represents that there is a great deal of work involved in the daily calculation and dissemination of these indexes and while much of such work is automated, a substantial amount of manual input is still required. Thus, the potential for human error exists, which exposes the Exchange to a risk of liability. Potential human errors include inputting a symbol or index value incorrectly, missing a corporate action, or inaccurately reporting the number of outstanding shares. With the introduction of new indexes, particularly those involving foreign stocks where current information may be unavailable on a timely basis, the chance for human error increases, thus exposing the Exchange to an even greater risk of liability.

Currently, rule 902C disclaims Exchange liability for damages caused by errors, omissions, or delays in the calculation or dissemination of any index value resulting from any conduct beyond the reasonable control of the Exchange. This includes an act of God, a power or systems failure, or any error, omission, or delay in the reported price of the underlying security. Rule 1003 disclaims Exchange liability in a similar manner with respect to the creation, redemption, and trading of Portfolio Depositary Receipts ("PDRs"), which covers the SPDRs products introduced on the S&P 500 Index.[2] The Exchange

[1] See e.g., Securities Exchange Act Release No. 33312 (December 9, 1993), 58 FR 65740 (December 16, 1993) (proposal to list and trade options on the Natural Gas Index); Securities Exchange Act Release No. 33305 (December 9, 1993), 58 FR 65605 (December 15, 1993) (proposal to list and trade options on the Securities Broker/Dealer Index).

[2] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18,

believes, however, that these disclaimer provisions are arguably ambiguous with respect to whether the Exchange remains potentially liable for damages caused by any human error or omission by an Exchange employee in connection with the performance of the Exchange's index responsibilities.

In view of the increased potential for Exchange liability as a result of the Exchange's expanding role in the administration of new proprietary indexes and product, the Amex wishes to make clear that the Exchange disclaims liability for negligent conduct, in addition to conduct beyond the Exchange's reasonable control which is presently covered by the Amex rules. The Exchange represents that the Amex, as well as the other major self-regulatory organizations, currently disclaim liability for negligent conduct associated with the dissemination of their market data to vendors, as well as generally in connection with the use of their facilities, except as they otherwise provide. The Exchange believes that it is inappropriate for exchanges to bear the risk and liability associated with the use of such information and facilities. In the area of index administration, the Exchange represents that Standard & Poor's and all the other major index providers likewise routinely disclaim liability for any negligent conduct.[3] Additionally, the New York Stock Exchange has a rule which is substantively similar to the Exchange's proposed rule change.[4] Finally, the Exchange acknowledges that rules 902C and 1003 cannot be relied upon by the Exchange to limit its liability to non-members or for any intentional or negligent violation of federal securities laws.[5] The Exchange is therefore proposing that Amex Rules 902C and 1003 be amended accordingly to clearly disclaim Exchange liability for negligent conduct.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is intended to facilitate transactions in securities.

1992) (approving listing and trading standards for PDRs).

[3] See, e.g., Chicago Board Options Exchange, Inc. Rule 24.14.

[4] See, e.g., New York Stock Exchange, Inc. Rule 813.

[5] See Letter from Bruce Ferguson, Associate General Counsel, Legal & Regulatory Policy, Amex, to Brad Ritter, Attorney, Office of Derivatives and Equity Oversight, Division of Market Regulation, Commission, dated March 21, 1994.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-93-41 and should be submitted by April 22, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[6] 17 CFR 200.30-3(a)(12) (1993).

Margaret H. McFarland,
*Deputy Secretary.*

[FR Doc. 94-7763 Filed 3-31-94; 8:45 am]
BILLING CODE 8010-01-M

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**[Release No. 34-33826; File No. SR-CBOE-93-56]**

## Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Termination of Registered Representatives

March 28, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Currently, paragraph (b), "Termination," of CBOE Rule 9.3, "Registration and Termination of Representatives," requires that a member file with the CBOE's Department of Investigation a Uniform Termination Notice for Securities Industry Registration (Form U-5) immediately after the termination of employment for cause of a Registered Representative. In addition, current CBOE Rule 9.3, Interpretation and Policy .01 defines "Termination for Cause." The CBOE proposes to amend CBOE Rule 9.3(b) to require members to file with the CBOE's Department of Compliance a termination notice for any discharge or termination of employment of a registered person, and the reason therefor, within 30 days of the termination. The proposal deletes the current rule's definition of "termination for cause" and adds paragraph (c), which requires members to file an amended Form U-5 with the Exchange's Department of Compliance if the member learns of facts or circumstances which cause any information provided in the notice to become inaccurate or incomplete. Finally, the proposal would replace current Interpretation and Policy .01 with a new Interpretation and Policy allowing members to fulfill CBOE Rule 9.3's filing requirements by submitting their filings or submissions

to the North American Securities Administrators Association/National Association of Securities Dealers, Inc. ("NASD") Central Registration Depository ("CRD") within the time period allowed under CBOE Rule 9.3.

The text of the proposal is available at the Office of the Secretary, CBOE, and at the Commission.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to modify the manner in which "Terminations for Cause" of employment or affiliation of any Registered Representative are reported to the CBOE by its members. Currently, under CBOE Rule 9.3, notices must be filed immediately with the CBOE's Department of Investigation following the date of termination by means of a Form U–5. However, the Department of Investigation no longer exists at the CBOE, and a portion of the duties previously performed by the Department of Investigation, including the receipt of Form U–5 information, is now performed by the CBOE's Department of Compliance. The proposal reflects this change by requiring that filings be made with the Exchange's Department of Compliance.

The proposal makes CBOE Rule 9.3 more encompassing by requiring termination notices to be filed for any discharge or termination of employment of a registered person, not just "termination for cause." To that end, the CBOE proposes to eliminate the definition of the term "Termination for Cause" provided in current Interpretation and Policy .01. The proposal also clarifies when termination notices must be filed, *i.e.*, "immediately, but in no event later than thirty (30) days following termination * * *." Finally, the proposal relieves CBOE member organizations of the obligation to file Form U–5 information in hard copy form and, instead, deems all CBOE Rule 9.3 filings and submissions as made for purposes of that rule if they are filed with the North American Securities Administrators Association/NASD CRD within the time period set forth in CBOE Rule 9.3. The CBOE states that this approach is possible because the Exchange's Department of Compliance has been given direct electronic access to all Form U–5's and amended Form U–5's filed by the CBOE's member organizations with CRD, making the direct filing of hard copies with the CBOE no longer necessary.

The CBOE anticipates that this rule change will reduce the costs to members of copying, handling and mailing termination materials. Further, the proposal will bring the CBOE's "Termination for Cause" reporting requirements in line with similar rules of the NASD (By-Law Article IV, Section 3) and the New York Stock Exchange (Rule 345).

The CBOE believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to improve the CBOE's capacity to enforce compliance with the provisions of the Act and the CBOE's rules by enabling the Exchange to monitor more efficiently all discharges or terminations of employment of registered persons, and, in general, to protect investors and the public interest.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The CBOE does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days after the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 22, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7823 Filed 3–31–94; 8:45 am]

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**[Release No. 34–33809; File Nos. SR–MCC–94–04 and SR–MSTC–94–06]**

## Self-Regulatory Organizations; Midwest Clearing Corporation and Midwest Securities Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Technical Amendments to Rules

March 24, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 3, 1994, and March 4, 1994, respectively, the Midwest Securities Trust Company ("MSTC") and the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in

[1] 17 CFR 200.30–3(a)(12) (1993).

[1] 15 U.S.C. 78s(b)(1) (1988).

Items I, II, and III below, which Items have been primarily prepared by MSTC and MCC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

**I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes**

The purpose of the proposed rule changes is to make technical corrections to section 1(b) of Rule 1 of Article VI of MSTC's rules and section 1(b) of Rule 1 of Article IX of MCC's rules.

**II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes**

In its filing with the Commission, MSTC and MCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. MSTC and MCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organizations' Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Changes*

In a previous order, the Commission approved proposed rule changes that made enhancements to MSTC's and MCC's operating systems.[2] As part of the enhancements, MSTC redefined "depository free position" as "segregated position," and MCC redefined "clearing free position" as "general free position" and redefined "loan free position" as "available for loan position." As a result, MSTC and MCC replaced the old terms with the new terms throughout their respective rules. However, the earlier proposed rule changes did not replace "depository free position" with "segregated position" in section 1(b) of Rule 1 of Article VI of MSTC's rules. Similarly, the earlier proposed rule changes failed to replace "clearing free position" with "general free position" and failed to replace "loan free position" with "available for loan position" in section 1(b) of Rule 1 of Article IX of MCC's rules. The current proposed rule changes make these technical corrections.

MSTC and MCC believe the proposed rule changes are consistent with sections 17A(b)(3)(A) and (F)[3] of the Act in that the proposed rule changes facilitate the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding of securities and funds which are in MSTC or MCC's custody or control or for which MSTC or MCC is responsible.

*B Self-Regulatory Organizations' Statements on Burden on Competition*

MSTC and MCC believe that no burden will be placed on competition as a result of the proposed rule changes.

*C Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others*

MSTC and MCC neither solicited nor received written comments on the proposed rule changes.

**III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action**

The foregoing rule changes have become effective pursuant to section 19(b)(3)(A)(i)[4] of the Act and pursuant to Rule 19b–4(e)(4)[5] in that the proposed rule changes effect a change in existing services of MSTC and MCC that do not adversely affect the safeguarding of securities or funds in the custody or control of MSTC or MCC or for which MSTC or MCC is responsible and does not significantly effect the respective rights or obligations of MSTC or MCC or persons using the services. At any time within sixty days of the filing of such rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of MSTC and MCC. All submissions should refer to File Nos. SR–MSTC–94–06 and SR–MCC–94–04 and should be submitted by April 22, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7761 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

[2] Securities Exchange Act Release No. 28877 (February 12, 1991), 56 FR 6892 [File Nos. SR–MSTC–90–01 and SR–MCC–90–01] (order approving proposed rule changes).

[3] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[4] 15 U.S.C. 78s(b)(3)(A)(i).

[5] 17 CFR 240.19b–4(e)(4) (1993).

[6] 17 CFR 200–30–(a)(12) (1993).

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**[Release No. 34–33820; File No. SR–MSTC–94–04]**

## Self-Regulatory Organizations; the Midwest Securities Trust Company; Filing of a Proposed Rule Change Establishing a Limited Purpose Participant Program

March 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 3, 1994, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by MSTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

MSTC submits the following proposed rule change to establish a new class of participant with limited access to MSTC's services ("limited purpose participant").

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the

[1] 15 U.S.C. 78s(b)(1) (1988).

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule filing is to establish a Limited Purpose Participant Program. Recently, the Commodity Futures Trading Commission ("CFTC") issued an order approving the Chicago Mercantile Exchange's ("CME") proposal to revise its program for accepting stock as clearing house performance bond margin. As a condition of the CFTC order, the CME agreed that all stock pledged pursuant to that program would be maintained at MSTC. In order to carry out the CME program, the CME has become a pledgee participant at MSTC. As a result, clearing members of the CME that are also participants at MSTC have been able to take advantage of this program by utilizing MSTC's existing Automated Pledge Loan Program. Typically, these are firms that are registered both as broker-dealers and as futures commission merchants ("FCMS"). It has become readily apparent that clearing members of the CME that are not members of MSTC are at a disadvantage because they are not able to participate in the CME program. Therefore, MSTC is proposing to establsh a Limited Purpose Participant Program to accommodate those clearing members of the CME that do not meet MSTC's existing qualifications to be participants because of their registration solely as FCMs.

Limited purpose participants will be limited to FCMs that are clearing members of a futures exchange. The activities at MSTC for which a limited purpose participant will be eligible will be limited to making or receiving free depository delivery instructions ("DDIs"), maintaining "segregated positions" for the purpose of effecting a free pledge of securities to a specified pledgee participant (*i.e.*, the futures exchange of which the limited purpose participant is a clearing member), receiving a return of the securities from that pledgee participant, and receiving a credit from MSTC for any cash dividends received on those securities. Limited purpose participants will not be able to make physical deposits or physical withdrawals of securities. Limited purpose participants will not be eligible for any other service offered by MSTC.

The proposed rule change is consistent with section 17(A) of the Act in that it will facilitate the prompt and accurate clearance and settlement of securities transactions.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

MSTC perceives no impact on competition by reason of the proposed rule change.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments from MSTC participants or others have not been solicited or received on the text of the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization.

All submissions should refer to File No. SR–MSTC–94–04 and should be submitted by April 22, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7765 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–33819; File No. SR–NSCC–94–04]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Filing and Immediate Effectiveness of a Proposed Rule Change Establishing a Fee for Printed Output Reports

March 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 14, 1994, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been primarily prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change establishes a fee for printed output reports as follows:

*Italics indicates additional text*

Addendum A

* * * * *

V. Pass-Through and Other Fees

* * * * *

B. Special Service Fees

* * * * *

5. Output Fees

* * * * *

*f. Printed Output Reports*

| | |
|---|---|
| *For Members with less than 20,000 lines per month.* | *no charge.* |
| *For Members with 20,000 or more lines per month.* | *$4.00 per each 1000 lines.*[1] |

[1] *From July 1, 1994 through December 31, 1994, Participants will only be billed $3.00 for each 1000 lines.*

[1] 15 U.S.C. 78s(b)(1) (1988).

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

For the past several years NSCC has been encouraging participants to reduce or eliminate the need to receive printed output reports and instead to accept data by transmission in machine readable or print image form. Most significantly, NSCC has sought to reduce or eliminate printed output for the following reasons: (1) Printed output is the least efficient method to communicate information in terms of both cost and time for both NSCC and its participants, (2) it is very expensive for NSCC to maintain the excess print capacity to handle sudden surges in trading volume, and (3) much of NSCC's printed output duplicates data already being transmitted in data and print image format. As a result, many firms, large and small, have either totally or largely eliminated printed output.

In order to more equitably allocate the costs associated with the remaining printing and distribution of printed output, NSCC's Board of Directors has determined to begin charging participants for the service. The proposed rule change establishes a fee for all printed reports. While the fee will be $4.00 per each one thousand lines, during the first six months NSCC will only collect $3.00 per one thousand lines. Participants having less than twenty thousand lines of print in a month will not be charged. In emergencies, printed output for all participants will be available at no charge.

NSCC believes that the proposal is consistent with section 17A(b)(3)(D)[2] of the Act because the proposed rule change will provide for a more equitable allocation of fees among participants.

[2] 15 U.S.C. 78q–1(b)(3)(D).

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NSCC does not believe that the proposed rule changes will have an impact on or impose a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii)[3] of the Act and pursuant to rule 19b–4(e)(2)[4] in that it establishes a fee. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–94–04 and should be submitted by April 22, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(e)(2) (1993).

[5] 17 CFR 200.30–3(a)(12) (1993).

Margaret H. McFarland,
*Deputy Secretary.*

[FR Doc. 94–7824 Filed 3–31–94; 8:45 am]
BILLING CODE 8010–01–M

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**[Release No. 34–33816; File No. SR–NYSE–93–27]**

## Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to Proposed Rule Change Relating to the Addition of Rules 72(b) and 410A to the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" and Amending Minor Rule Violation Enforcement and Reporting Plan

March 25, 1994.

**I. Introduction**

On May 27, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A by adding to the list violations of the agency provisions of Rule 72(b) and Rule 410A.[3] On June 9, 1993, the NYSE submitted to the Commission Amendment No. 1 to the proposed rule change.[4] On January 3, 1994, the Commission received from the NYSE Amendment No. 2 to the proposed rule change.[5] On February 18,

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] The NYSE also has requested approval, under Rule 19d–1(c)(2), 17 CFR 240.19d–1(c)(2), to amend its Rule 19d–1 Minor Rule Violation Enforcement and Reporting Plan ("Plan") to include Rules 72(b), 401 and 410A. See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Sharon Lawson, Assistant Director, Exchange and Options Regulation, Division of Market Regulation, Commission, dated May 26, 1993. Subsequent to this request, the Exchange amended the proposal to withdraw Rule 401 from the list of minor rule violations and to clarify that violations of Rule 72(b) involving instances of proprietary participation with the cross would be added to the list of minor rules. See Amendment No. 2, *infra* note 5.

[4] See letter from Donald Siemer, Director, Market Surveillance, NYSE, to Diana Luka-Hopson, Branch Chief, Commission, submitted on June 9, 1993, by which the NYSE made corrections to its current Rule 476A Violation List.

[5] See letter from Robert J. McSweeney, Senior Vice President, Market Surveillance, to Sandra Sciole, Special Counsel, Commission, dated December 23, 1993. Amendment No. 2 withdrew Rule 401 from the list of proposed additions to the Rule 476A list of minor rule violations and limited the violations of Rule 72(b) that would be eligible

Continued

1994, the NYSE submitted to the Commission Amendment No. 3 to the proposed rule change.[6]

The proposed rule change, together with Amendment Nos. 1 and 2, was noticed in Securities Exchange Act Release No. 33564 (February 1, 1994), 59 FR 5793 (February 8, 1994). No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 3 on an accelerated basis.

## II. Description of the Proposal

In 1984, the Commission adopted amendments to paragraph (c) of Securities Exchange Act Rule 19d–1 to allow SROs to submit, for Commission approval, plans for the abbreviated reporting of minor rule violations.[7] Subsequently, in 1985, the Commission approved an NYSE Plan ("Plan") for the abbreviated reporting of minor rule violations pursuant to Rule 19d–1(c) under the Act. The Plan relieves the NYSE of the current reporting requirements imposed under section 19(d)(1) for violations listed in NYSE Rule 476A. The NYSE Plan, as embodied in NYSE Rule 476A, provides that the Exchange may designate violations of certain rules as minor rule violations. The Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a violation of the delineated rules by issuing a citation with a specific penalty.[8] Such person can either accept the penalty, or opt for a full disciplinary hearing on the matter. Fines assessed pursuant to NYSE Rule 476A in excess of $2,500 are not considered pursuant to the Plan and must be reported in a manner consistent with the current reporting requirement of section 19(d)(1) of the Act. The Exchange also retains the option of bringing violations of rules included under NYSE Rule 476A to full disciplinary proceedings, and the Commission expects the Exchange to do so for egregious repeat violations.

In adopting Rule 19d–1, the Commission noted that the Rule was an attempt to balance the informational needs of the Commission against the reporting burdens of the SROs.[9] In promulgating paragraph (c) of the Rule, the Commission was attempting further to reduce those reporting burdens by permitting, where immediate reporting was unnecessary, quarterly reporting of minor rule violations. The Rule is intended to be limited to rules which can be adjudicated quickly and objectively.

The NYSE currently is adding violations of Rule 410A and the agency provisions of Rule 72(b) to the list of minor rule violations subject to the Rule 476A minor rule violation plan. As amended, the minor rule list includes only violations of the agency provisions of Rule 72(b).[10] In addition, the list includes the Rule 410A requirements for automated submission of trading data.[11]

The Exchange states that the purpose of the proposed rule change is to facilitate the Exchange's ability to induce compliance with all aspects of the above-name Rules. Additionally, the NYSE states that the proposed rule change is consistent with section 6(b)(6) of the Act in that it will provide a procedure whereby member organizations can be "appropriately disciplined" in those instances when a rule violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate. In addition, the Exchange states that the proposed rule change provides a fair procedure for imposing such sanctions, in accordance with the requirements of sections 6(b)(7) and 6(d)(1) of the Act.

## III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities Exchange and, in particular, with the requirements of section 6(b)(1), (6) and (7), 6(d)(1) and 19(d).[12] The proposal is consistent with the section 6(b)(6) requirement that the rules of an exchange provide that its members and persons associated with its members shall be appropriately disciplined for violations of rules of the exchange. In this regard, the proposal provides an efficient procedure for appropriate disciplining of members for a rule violation that is technical and objective in nature. Moreover, because the Plan provides procedural rights to the person fined and permits a disciplined person to request a full hearing on the matter, the proposal provides a fair procedure for the disciplining of members and persons associated with members which is consistent with section 6(b)(7) and 6(d)(1) of the Act.

The Commission also believes that the proposal provides an alternate means by which to deter violations of the requirements of Rules 410A and 72(b),[13] thus furthering the purposes of section 6(b)(1) of the Act. An exchange's ability to effectively enforce compliance by its members and member organizations with Commission and Exchange rules is central to its self-regulatory functions. Inclusion of a rule in an exchange's minor rule violation plan should not be interpreted to mean it is an unimportant rule. On the contrary, the Commission recognizes that inclusion of rules under a minor rule violation plan may not only reduce reporting burdens on an SRO but also may make its disciplinary

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to be fined under Rule 476A to instances of proprietary participation with the cross.

[6] See letter from Brian M. McNamara, Managing Director, Market Surveillance, NYSE, to Sandra Sciole, Special Counsel, Commission, dated February 11, 1994. Amendment No. 3 amended the text of the List of Exchange Rule Violations and Fines Applicable Thereto Pursuant To Rule 476A to replace the words "Rule 72(b)" with "violation of the agency provisions of Rule 72(b)."

[7] See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23838 (June 8, 1984). Pursuant to paragraph (c)(1) of Rule 19d–1, an SRO is required to file promptly with the Commission notice of any "final" disciplinary action taken by the SRO. Pursuant to paragraph (c)(2) of Rule 19d–1, any disciplinary action taken by an SRO for a violation of an SRO rule that has been designated a minor rule violation pursuant to the Plan shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated minor violations as not final, the Commission permits the SRO to report violations on a periodic, as opposed to immediate, basis.

[8] The List is contained under Supplementary Material to Exchange Rule 476A. As discussed in note 7, *supra*, only those fines imposed that are not in excess of $2,500 are subject to periodic reporting. Fines imposed pursuant to Rule 476A in excess of $2,500 are deemed final and therefore are subject to immediate reporting to the Commission.

[9] See Securities Exchange Act Release No. 13762 (July 8, 1977), 42 FR 35411 (July 14, 1977).

[10] NYSE Rule 72(b) states that when a member has an order to buy and an order to sell an equivalent amount of the same security, and both orders are for 25,000 shares or more and are for the accounts of persons who are not members or member organizations, the member may "cross" those orders at a price at or within the prevailing quotation. The member's bid or offer shall be entitled to priority at such cross price, irrespective of pre-existing bids or offers at that price. The member shall follow the crossing procedures of Rule 76, and another member may trade with either the bid or offer side of the cross transaction only to provide a price which is better than the cross price as to all or part of such bid or offer. A member who is providing a better price to one side of the cross transaction must trade with all other market interest having priority at that price before trading with any part of the cross transaction. No member may break up the proposed cross transaction, in whole or in part, at the cross price.

[11] NYSE Rule 410A requires members and member organizations to submit certain information concerning transactions in an automated format as requested by the Exchange. See NYSE Rule 410A for the list of trade data elements required to be submitted to the NYSE under this Rule.

[12] 15 U.S.C. 78f(b)(1), (6) and (7), 78f(d)(1) and 78s(d) (1988).

[13] As noted above, the minor rule list would include only the section of Rule 72(b) which prohibits instances of proprietary participation with the cross transaction. See Amendment No. 2, *supra* note 5.

system more efficient in prosecuting violations of these rules.

In addition, because the NYSE retains the discretion to bring a full disciplinary proceeding for any violation included on the List, the Commission believes that adding Rule 410A and the proprietary participation prohibition in Rule 72(b) to the List will enhance, rather than reduce, the NYSE's enforcement capabilities regarding this Exchange Rule. Indeed, the Commission expects the NYSE to bring full disciplinary proceedings for violations of Rule 410A or 72(b) where the violation is egregious or where there is a history or pattern of repeat violations.

Finally, the Commission believes that the inclusion of Rules 410A and 72(b) on the List will prove to be an effective alternate response to a violation when the initiation of a full disciplinary proceeding is unsuitable because such a proceeding may be more costly and time-consuming in view of the minor nature of the particular violation.

The Commission finds good cause for accelerated approval of Amendment No. 3 to the proposed rule change prior to the thirtieth day after publication of notice of filing thereof. The NYSE's proposed rule change was published in the **Federal Register** for the full statutory period and no comments were received.[14] Amendment No. 3 merely amends the list of minor rule violations to indicate that the list would include only the section of Rule 72(b) which prohibits instances of proprietary participation with the cross transaction. The Commission finds that accelerated approval of Amendment No. 3 is necessary in order for the NYSE to be able to effectuate its new amendments to Rule 476A in a timely manner upon approval.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–27 and should be submitted by April 22, 1994.

It is therefore ordered, pursuant to section 19(b)(2) and Rule 19d–1(c)(2) under the Act,[15] that the proposed rule change (SR–NYSE–93–27) is approved, including Amendment No. 3 on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7764 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–33818; International Series Release No. 644; File No. SR–Phlx–94–17]**

## Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to a Change in the Holiday Trading Schedule for Foreign Currency Options for Good Friday 1994

March 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 24, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to rule 19b–4 of the Act, proposes to amend its holiday schedule with respect to the trading of foreign currency options ("FCOs") on Good Friday, April 1, 1994. Specifically, the Exchange intends to conduct a two-hour FCO trading session from 8 a.m. Eastern Standard Time ("E.S.T.") through 10 a.m. E.S.T. on Good Friday. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

The Phlx, under its previously adopted holiday schedule, was scheduled to be closed on Good Friday. After learning of the decision of the U.S. Department of Labor to release the latest employment figures on the morning of Good Friday, April 1, 1994, however, the Foreign Currency Options Committee recommended to the Exchange's Board of Governors, and the Board of Governors by unanimous poll procedures approved for filing with the Commission, an amendment to the Phlx holiday schedule to permit a special trading session in foreign currency options from 8 a.m. E.S.T. to 10 a.m. E.S.T. on Good Friday.

The Exchange represents that the Board of Governors slated the special trading session in foreign currency options to accommodate customer interest and to meet competitive demand in light of the fact that the Chicago Mercantile Exchange and the Chicago Board of Trade have also scheduled special trading sessions on that date. The Exchange believes that a special trading session in foreign currency options will allow market participants the opportunity to protect their positions in case of adverse movements in the underlying currencies while allowing the Exchange to remain competitive with other exchanges and the interbank market which will be open for trading on Good Friday.

The Phlx believes that the proposed rule change is consistent with section 6 of the Act, in general, and with section 6(b)(5), in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

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[14] See Securities Exchange Act Release No. 33564 (February 1, 1994), 59 FR 5793 (February 8, 1994).

[15] 15 U.S.C. 78s(b)(2) (1988) and 17 CFR 240.19d–1(c)(2) (1991).

[16] 17 CFR 200.30–3(a)(12) (1993).

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Phlx does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Phlx has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[1] Specially, the Commission believes that because of the release of the latest employment figures by the U.S. Department of Labor and because the futures exchanges and the interbank market will be open, there may be investor interest in trading FCOs on Good Friday. This limited FCO trading session will provide those investors with the opportunity to hedge their positions in response to movements in the underlying currencies on these other markets.

Moreover, the Commission notes that the Exchange has issued a notice to its membership advising them of this proposed schedule change,[2] and following approval of the proposal will issue a second notice to members, thereby minimizing the possibility of investor confusion. The notice to members also describes the resulting changes in settlement procedures caused by the fact that The Options Clearing Corporation ("OCC") will be closed on Good Friday. Specially, all FCO options transactions occurring on Good Friday will be process by OCC on an "as of April 1" basis along with FCO transactions occurring on Monday, April 4, 1994. For example, FCOs exercised on Good Friday will be processed using the April 1 trading prices but the actual processing of the exercises will not occur until April 4, 1994. OCC represents that it has adequate systems capacity to process the FCO transactions executed during the special session in this manner. The Commission also notes that OCC has issued a notice to all clearing members notifying them of the special FCO trading session and the modified processing procedures.[3]

Based on the foregoing, the Commission finds that the Exchange's proposal to change the FCO trading hours on Good Friday as described herein is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade and remove impediments to a free and open market by allowing customers to trade FCOs on Good Friday while at the same time ensuring the protection of investors and the public interest in the trading of these products.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Accelerating approval of this proposal will provide the Exchange with sufficient time to notify FCO specialist units, member firms, and customers of the schedule change and allow such persons and entities to consider their trading strategies in light of the amended holiday schedule. Accordingly, the Commission believes it is consistent with the Act to approve the proposed rule change on an accelerated basis.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–94–17 and should be submitted by April 22, 1994.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,[4] that the proposed rule change (File No. SR–Phlx–94–17), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7762 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–33815; File No. SR–Phlx–94–13]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. ("Phlx") Relating to Regulation 2 (Foods, Liquids and Beverages)

March 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 10, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "S.E.C.") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to amend Phlx Regulation 2 (Foods, Liquids and Beverages) to permit the ability of the respective standing floor committees to relax prohibitions contained in this Regulation without filing a proposed rule change pursuant to section 19(b)(2) of the Act. The Exchange proposes to amend Regulation 2 as follows:[1]

Regulation 2—Foods, Liquids and Beverages Foods, liquids and beverages are prohibited on the trading floor and the lower level areas adjacent to the trading floor, except for the lunchrooms.

Any provision of this rule may be waived for a specific period of time by the chairperson of the appropriate floor standing committee or his designee.

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[1] 15 U.S.C. 78f(b)(5) (1988).

[2] See Circular: 94–46, from Murray Ross, Secretary, Phlx, to all members, member organizations, foreign currency options participants and participant organizations, dated March 23, 1994.

[3] See Memorandum #6689 from Ed Adinolfi, Vice President, Membership/Operations Services, OCC, to All Clearing Members, dated March 23, 1994.

[4] 15 U.S.C. 78s(b)(2) (1988).

[5] 17 CFR 200.30–3(a)(12) (1993).

[1] With respect to the following amendment, italicizing indicates new material.

| | |
|---|---|
| 1st Occurrence .. | Official Warning. |
| 2nd Occurrence . | $100.00 |
| 3rd Occurrence . | $200.00 |
| 4th and Thereafter. | Sanction is discretionary with the Business Conduct Committee session. |

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Regulation 2 (Food, Liquids and Beverages) is a regulation of order and decorum adopted pursuant to Phlx Rule 60.[2] Rule 60 (Assessments for Breach of Regulations) permits Exchange officials and Floor Officials to assess fines not exceeding $1,000 for violations of regulations pertaining to the administration of, and order, decorum, health, safety and welfare on the Exchange, or to refer such violations to the Exchange's Business Conduct Committee where higher fines or other sanctions may be imposed, in accordance with Phlx Rule 960. Rule 60 also enumerates the procedural aspects of order and decorum fines, including the ability to contest a fine and request a hearing. The Exchange has adopted seven regulations of order and decorum pursuant to Rule 60, including Regulation 2.

As originally adopted, Regulation 2 governs eating and drinking on the floor. As conditions respecting Exchange facilities, the number of member organizations' personnel employed on the trading floor and order flow patterns continually change, the Exchange believes that a procedure for waiving the prohibitions contained in Regulation 2 is necessary. Eating and drinking, under this proposal, would be permitted on any trading floor, upon determination by the chairperson, or his designee, of the appropriate floor standing committee. Any waiver of the prohibition must be for a specified period of time and would require prior notice to the trading floor; reinstituting the prohibition would also require prior notice.

The Exchange believes that incorporating a waiver procedure into Regulation 2 is more efficient than continually amending Regulation 2, which requires a filing with the Commission pursuant to section 19(b) of the Act. Such a filing would not raise new issues, because it would merely be specifying which floors, or parts thereof, prohibit eating or drinking. Often, the Exchange's reasons for either permitting or prohibiting eating on a particular trading floor may be time-sensitive such that the delay inherent in the preparation and filing of a 19(b) proposal may obviate the need for the change. The Exchange believes that the proposed language is preferable to permitting eating and drinking floor-wide, because eating and drinking may affect order and decorum on the trading floor, and thus, trading. The Exchange also believes that this proposal is preferable to filing repeated proposed rule changes, which would be repetitive and expend staff time. Because the impact of the proposal is limited to floor personnel, the Exchange does not believe that notice other than to the trading floor would be necessary.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Phlx Rule 60, because the regulation of eating and drinking on the trading floor is necessary to ensure health, safety and decorum. The Exchange also believes that the proposed rule change is consistent with section 6 of the Act in general, and in particular, with section 6(b)(5), in that it is designed to promote just and equitable principles of trade and protect investors and the public interest by fostering an orderly environment on the trading floor. In addition, the proposal is consistent with section 6(b)(6) of the Act because it would continue to provide that members of the Exchange be appropriately disciplined for violations of the rules of the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–94–13 and should be submitted by April 22, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7766 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

[2] Regulation 2 prohibits food, liquids and beverages on the trading floor and the lower level areas adjacent to the trading floor (except for the lunchrooms).

[Rel. No. IC–20166; 812–8764]

## The Arch Fund, et al.; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** The Arch Fund, Inc. (the "Fund"), the Arch Tax-Exempt Trust (the "Trust"), Mississippi Valley Advisors, Inc. ("MVA"), and the Winsbury Company Limited Partnership dba the Winsbury Company ("Winsbury").

**RELEVANT ACT SECTIONS:** Exemption requested under section 6(c) of the Act from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

**SUMMARY OF APPLICATION:** Applicants request an order to supersede a prior order that permits the Fund and the Trust to issue multiple classes of shares representing interests in the same portfolio of securities. The requested order would permit the Fund and the Trust to offer an unlimited number of classes, add a conversion feature, and assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on redemptions of shares.

**FILING DATE:** The application was filed on January 6, 1994, and amended on March 14, 1994. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, the Fund and the Trust, P.O. Box 78069, St. Louis, MO 63178; MVA, One Mercantile Center, Seventh and Washington Streets, St. Louis, MO 63101; and Winsbury, 1900 East Dublin-Granville Road, Columbus, OH 43229.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicant's Representations

1. The Fund and the Trust are open-end management companies. The Fund and the Trust consist of multiple investment portfolios or series, each of which has separate investment objectives and policies. MVA serves as investment adviser to the Fund and the Trust, and Winsbury serves as the distributor and principal underwriter.

2. Applicants request an amendment to a prior order that permits the Fund and the Trust to issue and sell separate classes of securities representing interests in their portfolios that declared dividends daily.[1] The requested order would supersede the prior order and permit the Fund and the Trust and each of their series to offer an unlimited number of classes of shares in existing and future portfolios and assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants request that any relief granted also apply to other investment companies for which MVA may act in the future as investment adviser (collectively, with the Fund and the Trust, the "Companies").

*A. The Multiple Class Distribution System*

1. Under the current distribution arrangements, portfolios of the Fund and Trust are authorized to issue two to three classes of shares representing interests in the same portfolio of securities. Classes may be offered to certain qualified institutional customers at net asset value or through financial intermediaries to individual and institutional customers. Under the prior order, classes of shares could be offered in connection with (a) a plan under rule 12b–1 under the Act, (b) a non-rule 12b–1 shareholder services plan, and (c) no plan at all.

2. Applicants propose that each Company be permitted to offer an unlimited number of classes of shares, including the classes currently offered. Classes of shares may be offered in connection with a plan or plans adopted pursuant to rule 12b–1 under the Act (the "Distribution Plan") and/or in connection with a non-rule 12b–1 administrative plan (the "Administrative Services Plan," collectively the Distribution Plan and the Administrative Services Plan are the "Plans"). Services under the Plans may be provided by a Company's distributor and/or administrator, or by organizations that have entered into agreements (collectively, "Plan Agreements") with the Company, its distributor, or its administrator concerning the provision of services to the organization's clients who may be the record or beneficial owners of shares of a particular class. The Companies also may offer classes of shares that would be subject to front-end sales loads and/or CDSCs. The sum of any front-end load, asset based sales charge, and CDSC will not exceed the maximum sales charge provided for in article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers ("NASD").

3. Expenses of a Company that could not be attributed directly to any one portfolio would be allocated to each portfolio based on the relative net assets of the portfolio or as otherwise determined under the supervision of its directors ("Company Expenses"). Expenses attributable to a portfolio but not to a particular class would be allocated on the basis of the relative net asset value of the respective classes in the portfolio ("Portfolio Expenses"). Each class will bear certain expenses attributable specifically to such class, as set forth in condition 1 ("Class Expenses"). The net asset value of all shares of a portfolio would be computed on the same days and at the same times.

4. MVA, Winsbury, or other service contractor may choose to reimburse or waive Class Expenses on certain classes on a voluntary, temporary basis. The amount of Class Expenses waived or reimbursed may vary from class to class. Class Expenses are by their nature specific to a given class and are expected to vary from one class to another. Applicants believe that it is acceptable and consistent with shareholder expectations to reimburse or waive Class Expenses at different levels for different classes of the same portfolio.

5. In addition, MVA, Winsbury, or other service contractor may waive or reimburse Company Expenses and/or Portfolio Expenses (with or without a waiver or reimbursement of Class Expenses) but only if the same proportionate amount of Company Expenses and/or Portfolio Expenses are

[1] Investment Company Act Release Nos. 15489 (Dec. 22, 1986) (notice) and 15532 (Jan. 13, 1987) (order).

waived or reimbursed for each class. Thus, any Company Expenses and/or Portfolio Expenses that are waived or reimbursed would be credited to each class of a portfolio according to the relative net assets of the classes. Company Expenses and Portfolio Expenses apply equally to all classes of a given portfolio. Accordingly, it may not be appropriate to waive or reimburse Company Expenses or Portfolio Expenses at different levels for different classes of the same portfolio.

6. Applicants propose that share exchange privileges may be available to shareholders to permit (a) the exchange of shares of one portfolio for shares having similar characteristics of another portfolio, (b) the exchange of shares of an equity portfolio or a fixed income portfolio for shares of a money market portfolio (or vice versa), and/or (c) the exchange of shares of one class of a portfolio for shares of another class of the same portfolio. Any exchange of shares will comply with rule 11a–3 under the Act.

7. Shares of some classes of shares subject to a CDSC ("Convertible CDSC Shares") could automatically convert into shares of non-CDSC shares (Non-CDSC Shares") after a prescribed period following the purchase of Convertible CDSC Shares. Shares acquired through the reinvestment of dividends and other distributions paid with respect to Convertible CDSC Shares will also be Convertible CDSC Shares. These shares will convert to Non-CDSC Shares on the earlier of a prescribed period following the date of such reinvestment or the conversion date of the most recently purchased Convertible CDSC Shares which were not acquired through the reinvestment of dividends or other distributions.

*B. The CDSC*

1. Applicants also request an exemption to permit the Companies to impose a CDSC on redemptions of shares of the Companies, and to waive the CDSC under certain circumstances. No CDSC will be imposed on an amount that represents an increase in the shareholder's account resulting from capital appreciation, on shares acquired through the reinvestment of income dividends or capital gain distributions, or on those shares purchased more than a specified period prior to redemption. In determining whether a CDSC would be payable, it would be assumed that shares, or amounts representing shares, that are not subject to a CDSC would be redeemed first and other shares or amounts would be redeemed in the order purchased. No CDSC will be imposed on shares purchased before the effective date of the requested order.

2. Applicants request the ability to waive the CDSC on redemptions; (a) In connection with distributions to participants of an employee pension, profit-sharing, or other trust or qualified retirement plan or Keogh plan, individual retirement account, or custodial account maintained pursuant to section 403(b)(7) of the Internal Revenue Code (the "Code"); (b) in connection with distributions to participants in qualified retirement or Keogh plans, individual retirement accounts, or custodial accounts maintained pursuant to section 403(b)(7) of the Code due to death, disability, or the attainment of a specified age; (c) in connection with a portfolio's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than a minimum account size; (d) redemptions in connection with the combination of the portfolios with any other investment company registered under the Act by merger, acquisition of assets, or by any other transaction; (e) in connection with the death or disability of the shareholder; (f) of shares that qualify for rights of accumulation, privileges under a letter of intent, or quantity discount; (g) resulting from a tax-free return of an excess contribution pursuant to section 408(d)(4) or (5) of the Code; (h) made in connection with a systematic withdrawal plan; (i) of shres held by current and/or former board members, officers, and employees (and their families) of applicants and current and/or former registered representatives or employees (and their families) of banks or broker/dealers that have entered into selling agreements with applicants; (j) by a state, county, or city or any instrumentality thereof, and/or by trust companies and bank trust departments; (k) effected by advisory accounts managed by MVA or other firms registered (or exempt from registration) under the Investment Advisers Act of 1940; (l) pursuant to a qualified domestic relations order, as defined in section 414(p) of the Code; or (m) of shares purchased with dividends or distributions earned in other portfolios. If a portfolio waives or reduces a CDSC, such action will be applied uniformly to all offerees in the specified class.

**Applicants' Legal Analysis**

1. Applicants request an exemption under section 6(c) of the Act from sections 18(f)(1), 18(g), and 18(i) of the Act to issue multiple classes of shares representing interests in the same portfolio of securities. Applicants believe that by implementing the multiple class distribution system, the Companies would be able to facilitate the distribution of their shares and provide a broad array of services without assuming excessive accounting and bookkeeping costs. Applicants also believe that the proposed allocation of expenses and voting rights in the manner described above is equitable and would not discriminate against any group of shareholders.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder to assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants believe that their request to permit the CDSC arrangement would permit shareholders the option of having more investment dollars working for them from the time of their share purchases than if they chose a class with a front-end sales load.

**Applicants' Conditions**

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Each class of shares representing interests in the same portfolio of a Company will be identical in all respects, except as set forth below. The only differences between the classes of shares of the same portfolio will relate solely to:

(a) The impact of: (i) Expenses assessed to a class pursuant to a Plan, (ii) other Class Expenses which would be limited to: (A) Transfer agency fees identified by the transfer agent as being attributable to a specific class of shares, (B) fees and expenses of a Company's administrator that are identified and approved by the Company's board as being attributable to a specific class of shares, (C) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholder of a class, (D) blue sky registration fees incurred by a class of shares, (E) SEC registration fees incurred by a class of shares, (F) the expense of administrative personnel and services as required to support the shareholders of a specific class, (G) litigation or other legal expenses or audit or other accounting expenses relating solely to one class of shares and (H) directors' fees incurred as a result of issues relating to one class of shares; and (iii) any other incremental expenses subsequently identified that should be properly allocated to one class and

which are approved by the SEC pursuant to an amended order;

(b) The fact that the classes will vote separately with respect to a portfolio's Plans and any other matter submitted to shareholders relating to Class Expenses, except as provided in condition 17 below;

(c) The different exchange privileges of the classes of shares;

(d) Certain conversion features offered by some of the classes; and/or

(e) The designation of each class of shares of a portfolio.

2. The board of directors of a Company, including a majority of the independent directors, will approve the offering of different classes of shares under the amended multi-class distribution system. The minutes of the meetings of the directors regarding the deliberations of the directors with respect to the approvals necessary to implement a multi-class system will reflect in detail the reasons for the directors' determination that the proposed multi-class system is in the best interests of both the Company involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of directors of a Company, including a majority of the directors who are not interested persons of the Company. Any person authorized to direct the allocation and disposition of monies paid or payable by a Company to meet Class Expenses shall provide to the board of directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each portfolio having a multi-class system for the existence of any material conflicts among the interests of the various classes of each portfolio. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A portfolio's investment adviser and distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, a portfolio's investment adviser and/or distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Administrative Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. The directors of a Company will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures under each Plan complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing expenditure charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends paid by a portfolio with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that Plan Payments relating to each respective class of shares and the Class Expenses relating to each class of shares will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes in any portfolio having a multi-class distribution system and the proper allocation of expenses among the various classes in each such portfolio have been reviewed by an expert (the "Expert") who has rendered a report to the Company involved, which report has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Company involved that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Company involved (which the Company agrees to provide), will be available for inspection by the SEC staff upon the written request to the Company for such work papers by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the various classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition (8) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (8) above. Applicants will take immediate corrective measures if this representation is not concurred with by the Expert or appropriate substitute Expert.

10. The prospectus of each portfolio having a multi-class system will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares in a portfolio may receive different compensation with respect to one particular class of shares over another in the same portfolio.

11. The distributor for a Company having a multi-class system will adopt compliance standards for any portfolio which has a multi-class system, which standards will relate to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a portfolio having a multi-class system to agree to conform to such applicable standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors with respect to the multi-class system will be set forth in guidelines which will be furnished to the directors

of a Company having a multi-class system.

13. Each portfolio having a multi-class system will disclose the respective expenses, performance data, distribution arrangements, services, fees, front-end sales loads, CDSCs, conversion features, and exchange privileges applicable to each class of shares in a portfolio in every prospectus relating to such portfolio, regardless of whether all classes of shares are offered through each prospectus. Each such portfolio will disclose the respective expenses and performance data applicable to all classes of shares in a portfolio in every shareholder report relating to such portfolio. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the portfolio as a whole generally and not on a per class basis. Each portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of any portfolio's net asset value and public offering price will present each class of shares separately.

14. Applicants acknowledge that the grant of the exemptive order, amending the prior order, requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the portfolios may make pursuant to a Plan in reliance on the exemptive order.

15. If a CDSC arrangement is implemented with respect to shares of a portfolio, applicants agree to comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as currently proposed and as it may be reproposed, adopted or amended.

16. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

17. If a Company implements any amendment to its Distribution Plan(s) (or, if presented to shareholders, adopts or implements any amendment to an Administrative Plan or Plans) that would increase materially the amount that may be borne by the Non-CDSC Shares under the Plan, existing Convertible CDSC Shares will stop converting into the Non-CDSC Shares unless the Convertible CDSC Shares, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Convertible CDSC Shares are exchanged or converted into a new class of shares ("New Non-CDSC Shares"), identical in all material respects to the Non-CDSC Shares as they existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Non-CDSC Shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Convertible CDSC Shares for a new class ("New Convertible CDSC Shares"), identical to the existing Convertible CDSC Shares in all material respects except that the New Convertible CDSC Shares will convert into New Non-CDSC Shares. New Non-CDSC Shares or New Convertible CDSC Shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Non-CDSC Shares or New Convertible CDSC Shares shall be borne solely by the adviser and the distributor. Convertible CDSC Shares sold after the implementation of the proposal may convert into Non-CDSC Shares subject to the higher maximum payment, provided that the material features of the Non-CDSC Share plan and the relationship of such plan to the Convertible CDSC Shares are disclosed in an effective registration statement.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7768 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

**[Investment Company Act Rel. No. 20163; 812–8760]**

## The Brinson Funds, et al.; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** The Brinson Funds (including all existing and future series thereof), on behalf of itself and future registered investment companies (including series thereof) for which Brinson Partners, Inc., or any person controlling, controlled by, or under common control with Brinson Partners, Inc., serves as investment adviser (the "Funds"); and Brinson Partners, Inc. (the "Adviser").

**RELEVANT ACT SECTION:** Exemption requested under section 17(d) and rule 17d–1.

**SUMMARY OF APPLICATION:** Applicants seek a conditional order permitting them to participate in a joint account (the "Joint Account") to pool cash balances and reserves for the purpose of investing in:

(a) Repurchase agreements, with maturities not to exceed 60 days, "collateralized fully," as that term is defined in rule 2a–7 under the Act;

(b) U.S. Government securities with remaining maturities not to exceed 91 days ("Government Securities"); and

(c) Other short-term money Market instruments that constitute "Eligible Securities" within the meaning of rule 2a–7 with remaining maturities not to exceed 90 days ("Short-Term Money Market Instruments") (collectively "Short-Term Investments").

**FILING DATE:** The application was filed on January 10, 1994 and amended on March 17, 1994. Counsel, on behalf of applicants, has agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service.

Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 209 South LaSalle Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

**Applicants' Representations**

1. The Brinson Funds is an open-end, management investment company. The Brinson Funds currently is authorized to issue shares in eight series. Each series has entered into an investment advisory agreement with the Adviser.

2. Each of the Funds may be expected to have cash balances in its custodian bank which, in the normal course, will be uninvested or invested in Short-Term Investments to provide liquidity and earn additional income for each Fund. At the present time, each Fund must separately pursue, secure, and implement investments in Short-Term Investments. This has resulted in certain inefficiencies, and may limit the return which some or all of the Funds achieve. Each Fund seeks an exemptive order to purchase Short-Term Investments through the Joint Account, consistent with each Fund's investment objectives and policies.

3. The Joint Account will be registered in a nominee name of the Funds' custodian (the "Custodian"). The sole purpose of the nominee will be to hold the investment of the Joint Account on behalf of the beneficial owners of these investments. Each Fund that deposits cash into the Joint Account will be the beneficial owner of the cash so deposited and the Fund's *pro rata* share of any securities purchased with the Fund's cash.

4. As investment adviser to each Fund, the Adviser will determine whether to invest the assets of such Fund designated for Short-Term Investments in repurchase agreements, Government Securities, or Short-Term Money Market Instruments. The existence of the Joint Account will not affect the decision whether to invest in repurchase agreements, Government Securities, or Short-Term Money Market Instruments, except to the extent the Joint Account has available to it such Short-Term Investments that are not otherwise available to a particular Fund and, on the basis of yield, creditworthiness, and liquidity, offer a competitive investment.

5. Not all of the Funds will participate in every investment made through the Joint Account. When a Fund or Funds invests through the Joint Account, a particular Short-Term Investment will be purchased and allocated solely to those investors. A Fund will not be able to add additional cash to an outstanding Short-Term Investment. Rather, when additional cash is available for investment through the Joint Account, a new Short-Term Investment will be acquired and allocated solely to the newly investing Funds.

6. Each of the Funds has established the same systems and standards for acquiring Short-Term Investments, and it is anticipated that the Joint Account will use the same systems and standards employed by the individual Funds. These standards for repurchase agreement transactions include creditworthiness standards for counterparties and for collateral. The repurchase agreements will be "collateralized fully," as that term is defined in rule 2a–7 under the Act.

7. Short-Term Money Market Instruments held in the name of the Joint Account will consist of a wide variety of short-term debt instruments, including commercial paper, bank debt instruments, loan participations, variable and floating rate notes, master demand notes, and bankers' acceptances. All Short-Term Money Market Instruments purchased by the Joint Account must be issued by persons on the Adviser's approved list of issuers of such instruments. The list is compiled by portfolio managers, credit analysts, and other employees of the Adviser based on such persons' assessment of whether the issuer presents minimal credit risk.

8. The maturities selected with respect to Short-Term Investments reflect, in the Adviser's view, the economic trade-offs between higher yields generally available from investments with longer maturities and the higher interest rate risk and liquidity concerns of those longer maturity investments. The maturities selected with respect to Short-Term Investments by the Joint Account also reflect the structure of the underlying markets in those instruments. For example, the repurchase agreement market is normally quoted and traded for overnight, one week, one month, and two month maturities and the repurchase agreement market is relatively inactive and illiquid beyond 60 days. With respect to Government Securities, Treasury bills are auctioned weekly for original maturities of 91 and 182 days. Maturities beyond 91 days are considered by the Adviser as possessing more interest rate risk than it believes is appropriate for the Funds' cash investments. Short-Term Money Market Instruments are normally quoted and offered for 30, 60, and 90 day maturities and such maturities are considered the most liquid and active segments of the market.

9. Each trade in the Joint Account will be reported to the Custodian through a trade authorization that will include a "master trading authorization" and underlying "tickets" for each Fund that has participated in the transaction. The master trading authorization will authorize the Custodian to settle the transaction on a joint basis. The underlying tickets will state each Fund's portion of the investment. The Custodian will reconcile the Joint Account with the master trading authorizations and the underlying tickets on a daily basis. The Joint Account also will be reconciled to the Custodian's securities movement and control records at least monthly. The Custodian will reconcile each Fund's securities movement and control records with each Fund's security ownership records at least monthly.

10. The operation of the Joint Account will result in fewer transactions in Short-Term Investments for the Funds, thus saving transaction fees. The Funds also will benefit from rates of return that are higher on large Short-Term Investments than on smaller ones.

11. Any Short-Term Investment with a remaining maturity of more than seven days will be considered illiquid and subject to the restriction that a Fund may not invest more than 15% of its net assets in illiquid securities, if a Fund cannot sell its fractional share of the Short-Term Investment pursuant to condition 12 below. Short-Term Investments held in book-entry form may be sold in fractional parts. Therefore, a Fund may sell its portion of a Short-Term Investment held through a Joint Account in book-entry form without adversely affecting the other Funds participating in the Short-Term Investment. Applicants believe that the market for these "fractional" Short-Term Investments held in book-entry form is liquid since these securities are customarily sold in both small and large denominations as well as "odd-lots."

**Applicants' Legal Analysis**

1. Section 17(d) makes it unlawful for any affiliated person, or affiliated person of an affiliated person, of a registered investment company, acting as principal, to effect any transaction in which the company is a joint or joint and several participant with the affiliated person in contravention of such rules and regulations as the SEC may prescribe for the purpose of limiting or preventing participation by such company. Rule 17d–1 was promulgated pursuant to section 17(d). Under rule 17d–1, most joint transactions are prohibited unless approved by order of the SEC.

2. Each Fund, by participating in the proposed Joint Account, and the Advisers, by administering the Joint Account, could be deemed to be "joint participants" in a transaction within the meaning of section 17(d), and the Joint Account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1. Each Fund may be deemed an "affiliated person" of each other Fund under the definition set forth in section 2(a)(3).[1]

3. The proposed method of operating the Joint Account will not result in any conflicts of interest between any of the Funds or between a Fund and the Adviser. Although the Adviser will gain some benefit through administrative convenience and a possible reduction in clerical costs, the primary beneficiaries will be the Funds because the Joint Account will be a more efficient way of administering investment transactions. Applicants believe that the operation of the Joint Account will be free of any inherent bias favoring one Fund over another.

4. In passing upon applications under section 17(d) and rule 17d–1, the SEC considers whether participation by a registered investment company is consistent with the provisions, policies, and purposes of the Act and not on a basis less advantageous than that of other participants. For the reasons described above and in light of the conditions set forth below, applicants submit that the criteria for issuing an order under rule 17d–1 are met.

**Applicants' Conditions**

1. Each Fund will transfer into the Joint Account the cash it wishes to invest through the Joint Account after the calculation of its daily cash available for investment and will specifically indicate whether the cash is to be used to purchase repurchase agreements, Government Securities, or Short-Term Money Market Instruments. The Joint Account will not be distinguishable from any other account maintained by a Fund with its custodian bank except that monies from a Fund will be deposited on a commingled basis. The Joint Account will not have any separate existence which would be indicative of a separate legal entity. The sole function of the Joint Account will be to provide a convenient way of aggregating individual transactions which would otherwise require management by each Fund.

2. Cash contributed by a Fund to the Joint Account will be invested in one or more of the following, as directed by the Fund:

(a) Repurchase agreements, with maturities not to exceed 60 days, "collateralized fully," as that term is defined in rule 2a–7 under the Act;

(b) Government Securities with remaining maturities not to exceed 91 days; or

(c) Other Short-Term Money Market Instruments with remaining maturities not to exceed 90 days.

3. Any investment made through the Joint Account will satisfy the investment criteria of all Funds participating in that investment.

4. All investments held through the Joint Account will be valued on the basis of amortized cost to the extent permitted by applicable Commission release, rule, or order.

5. Any Fund valuing its net assets in reliance upon rule 2a–7 will use the average maturity of the instrument(s) in the Joint Account in which such Fund has an interest (determined on a dollar weighted basis) for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in the Joint Account on that day.

6. In order to assure that there will be no opportunity for one Fund to use any part of a balance of the Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in the Joint Account for any reason. A Fund's decision to invest through the Joint Account will be solely at the Fund's option. No Fund will be obligated to invest through the Joint Account or maintain any minimum balance therein. In addition, each Fund will retain the sole rights of ownership of any of its assets held through the Joint Account, including interest payable on such assets.

7. The Adviser, the fund accountant/pricing agent, and the Custodian will maintain records (in conformity with section 31 and the rules and regulations thereunder) documenting, for any given day, each Fund's aggregate investment in the Joint Account and each Fund's *pro rata* share of each Short-Term Investment made through the Joint Account.

8. Not every Fund participating in the Joint Account will necessarily have its cash invested in every Short-Term Investment held in the Joint Account. However, to the extent a Fund's cash is applied to a particular Short-Term Investment made through the Joint Account, the Fund will participate in, and own a proportionate share of, such investment, and the income earned or accrued thereon, based upon the percentage of such investment purchased with the monies contributed by the Fund.

9. The Adviser will administer the investments of the Joint Account as part of its duties under the existing or any future investment advisory agreements with each Fund and will not collect any additional fee for the management of the Joint Account. (The Adviser will collect fees in accordance with each Fund's respective investment advisory agreement.)

10. The boards of trustees/directors of the Funds will adopt procedures pursuant to which the Joint Account will operate, which will be reasonably designed to provide that the requirements of the application will be met. The board will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, the board will determine, no less frequently than annually, that the Joint Account has been operated in accordance with such procedures.

11. The administration of the Joint Account will be within the fidelity bond coverage required by section 17(g) and rule 17g–1.

12. Short-Term Investments held through the Joint Account generally will not be sold prior to maturity except:

(a) If the Adviser believes the security no longer presents minimal credit risk;

(b) In the case of Short-Term Money Market Instruments, if as a result of a credit downgrading or otherwise, the security no longer satisfies the investment criteria of all Funds participating in that investment; or

(c) In the case of a repurchase agreement, if the counterparty defaults. A Fund may, however, sell its fractional portion of a Short-Term Investment prior to the maturity of the investment if the cost of such transaction will be borne solely by the selling Fund and the transaction would not adversely affect

[1] Section 2(a)(3) defines the term "affiliated person of another person" to include, in relevant part, (a) any person directly or indirectly controlling, controlled by, or under common control with such other person; and (b) if such other person is an investment company, any investment adviser thereof.

the other Funds participating in the Short-Term Investment. In no case would an early termination by less than all participating Funds be permitted if it would reduce the principal amount or yield received by other Funds participating in a particular Short-Term Investment or otherwise adversely affect the other participating Funds. Each Fund participating in the Short-Term Investment will be deemed to have consented to such sale and partition of the Short-Term Investment.

13. With respect to each Fund, any Short-Term Investment held through a Joint Account with a remaining maturity of more than seven days will be considered illiquid and subject to the restriction that each Fund may not invest more than 15% of its net assets in illiquid securities, if a Fund cannot sell its fractional share of the Short-Term Investment pursuant to the requirements described in the preceding condition.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7772 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20164; 811–5946]**

## First Cash Funds of America; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** First Cash Funds of America.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on March 10, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant is a Massachusetts business trust registered under the Act. On October 11, 1989, applicant filed a registration statement on Form N–8A. For its Treasury Portfolio ("TP"), Government Portfolio ("GP"), and Money Market Portfolio ("MMP") portfolios, applicant registered its shares on February 16, 1990. The registration statement became effective on June 8, 1990, and the initial public offering commenced on June 8, 1990. For its California Tax-Free Portfolio ("CTP") portfolio, applicant registered CTP's shares on May 21, 1990. The registration statement became effective on September 14, 1990, and the initial public offering commenced on September 17, 1990. Each of applicant's portfolios invested in open-end management investment companies (each an "Underlying Trust") having the same investment objective as the investing portfolio.

2. At a meeting held on October 30, 1992, applicant's board of directors approved the reorganization, termination and deregistration of applicant. In this reorganization, applicant's portfolios, MMP, GP, TP, and CTP, would be acquired by Prime Fund, Government Fund, Treasury Only Fund and California Tax-Exempt Money Market Fund ("CTE"), respectively, each a portfolio of Pacific Horizon Funds, Inc.

3. At special meetings held on February 18, and February 25, 1993, applicant's interestholders approved a plan of reorganization. On March 1, 1993, pursuant to the plan, Prime Fund, Government Fund, Treasury Only Fund and CTE acquired the assets and liabilities of MMP, GP, TP, and CTP, respectively, in exchange for shares of Prime Fund, Government Fund, Treasury Only Fund and CTE, with the same net asset value, and these shares were distributed to the appropriate shareholders of MMP, GP, TP and CTP. Concurrently, the Underlying Trusts, in which the applicant's portfolios invested, distributed portions of their assets and liabilities equal to the value of the interests in them of the respective portfolios to the corresponding Pacific Horizon portfolios.

4. One-third of the expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no securityholders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7775 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20165; 811–5947]**

## First Funds of America; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** First Funds of America.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on March 10, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994 and should be

accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is a Massachusetts business trust registered under the Act. On October 11, 1989, applicant filed a registration statement on Form N–8A. For its Treasury Money Fund ("TMF"), Government Money Fund ("GMF"), and Money Market Fund ("MMF") portfolios, applicant registered its shares on February 1, 1990. The registration statement became effective on June 6, 1990, and the initial public offering commenced on June 8, 1990. For its Eagle California Tax-Free Money Fund ("Eagle") portfolio, applicant registered Eagle's shares on May 21, 1990. The registration statement became effective on July 24, 1991, and the initial public offering commenced on July 29, 1991. Each of applicant's portfolios invested in open-end management investment companies (each an "Underlying Trust") having the same investment objective as the investing portfolio.

2. At a meeting held on October 30, 1992, applicant's board of directors approved the reorganization, termination and deregistration of applicant. In this reorganization, applicant's portfolios, MMF, GMF, TMF, and Eagle, would be acquired by Prime Fund, Government Fund, Treasury Only Fund and California Tax-Exempt Money Market Fund ("CTE"), respectively, each a portfolio of Pacific Horizon Funds, Inc.

3. At special meetings held on February 18, and February 25, 1993, applicant's interestholders approved a plan of reorganization. On March 1, 1993, pursuant to the plan, Prime Fund, Government Fund, Treasury Only Fund and CTE acquired the assets and liabilities of MMF, GMF, TMF, and Eagle, respectively, in exchange for shares of Prime Fund, Government Fund, Treasury Only Fund and CTE, with the same net asset value, and these shares were distributed to the appropriate shareholders of MMF, GMF, TMF, and Eagle. Concurrently, the Underlying Trusts, in which the applicant's portfolios are invested, distributed portions of their assets and liabilities equal to the value of the interests in them of the respective portfolios to the corresponding Pacific Horizon portfolios.

4. One-third of the expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no securityholders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7770 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20161; 811–5937]**

## Government Money Trust; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** Government Money Trust.

**RELEVANT ACT SECTIONS:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on March 10, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is a registered open-end management investment company organized under the laws of the State of New York. On October 11, 1989, applicant registered as an investment company under the Act, and on February 16, 1990 applicant filed a registration statement on Form N–1A to register its shares. While in operation, applicant had two interestholders: Government Money Fund, a portfolio of First Funds of America; and Government Portfolio, a portfolio of First Cash Funds of America. Applicant did not issue shares to the general public.

2. At a meeting held on October 30, 1992, applicant's board of trustees approved the reorganization, termination and deregistration of applicant. In this reorganization, applicant's interestholders would be acquired by Government Fund, a portfolio of Pacific Horizon Funds, Inc., and concurrently, Government Fund would acquire all of applicant's assets and liabilities.

3. On February 25, 1993, at a special meeting, applicant's interestholders approved a plan of reorganization. On March 1, 1993, pursuant to the plan, Government Fund acquired all of the assets and liabilities of Government Money Fund and Government Portfolio in exchange for shares of Government

Fund, and these shares were distributed, with the same net asset value, to the shareholders of Government Money Fund and Government Portfolio. Applicant transferred all of its assets and liabilities to its sole interestholder, Government Fund.

4. One-third of the expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no security holders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7771 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20169; 812–8658]**

## Hartford Bond/Debt Securities Fund, Inc., et al.; Application

March 28, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

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**APPLICANTS:** Hartford Bond/Debt Securities Fund, Inc., HVA Money Market Fund, Inc., Hartford U.S. Government Money Market Fund, Inc., Hartford GNMA/Mortgage Securities Fund, Inc., Hartford Money Market Fund, Inc., and Hartford Index Fund, Inc. (collectively, the "Funds") and Hartford Investment Company, Inc. (the "Adviser").

**RELEVANT ACT SECTIONS:** Section 17(d) of the Act and rule 17d–1 thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order that would permit the Funds to deposit their uninvested cash balances into a joint trading account through which the cash would be invested in repurchase agreements.

**FILING DATE:** The application was filed on October 29, 1993, and amended on January 28, 1994. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 22, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Hartford Plaza, P.O. Box 2999, Hartford, CT 06104–2999.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Robert A. Robertson, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicants' Representations

1. Each of the Funds is a registered open-end management investment company and is authorized to invest in repurchase agreements. Applicants request that relief be extended to future funds and future services of existing Funds for which the Adviser, or any entity under common control or controlled by the Adviser, serves as investment adviser. (The term "Funds" will include these future funds and series.) The Adviser serves as investment adviser or investment manager to the Funds and is ultimately owned by ITT Corporation.

2. At the end of each trading day, each Fund is expected to have uninvested case balances in its account at its custodial bank that otherwise would not be invested in portfolio securities. Generally, such assets are, or would be, invested in short-term liquid assets, including repurchase agreements. Presently, the Adviser must purchase such instruments separately on behalf of each Fund.

3. Applicants propose to deposit the daily uninvested cash balances of the Funds into one joint account. The daily balances of the proposed joint account would be invested in one or more repurchase agreements. Under the general provisions of each Fund's agreement with the Adviser, the Adviser would share the responsibility for investing monies in the joint account, establishing accounting and control procedures, ensuring the equal treatment of each Fund, and ensuring that the assets of the Funds continue to be held under proper bank custodial procedures.

4. Each of the Funds has established quality standards for issuers of the repurchase agreements and requires that the repurchase agreements will be "collateralized fully" as that term is defined in rule 2a–7 under the Act. All joint repurchase agreement transactions will be effected in accordance with Investment Company Act Release No. 13005 (Feb. 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, release, letter, or otherwise relating to repurchase agreement transactions. Applicants acknowledge that they have a continuing obligation to monitor published statements of the SEC on repurchase agreements, and in the event the SEC sets forth different or additional requirements, each Fund will modify its systems and standards accordingly.

5. The joint accounts would not differ from any other account maintained by a Fund with a custodian bank except that monies from each Fund could be deposited on a commingled basis. The account would not have any indicia of a separate legal entity and only would exist to provide a convenient way of aggregating the individual daily transactions necessary to manage the Funds' respective daily uninvested cash balances. Each of the Funds participating in a proposed joint account would participate in that account on the same basis as every other participating Fund, and in conformity with each Fund's fundamental investment objectives and policies.

### Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Fund participating in the proposed joint account and the Adviser could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d). In addition, the proposed account could be deemed to be a "joint

enterprise or other joint arrangement" within the meaning of rule 17d–1.

2. The Funds' board of directors are satisfied that the proposed method of operating the joint account would not result in any conflicts of interest among the joint participants. The boards also considered the fact that although the Adviser would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the participating Funds and their shareholders since the joint account may earn higher returns for the Funds and would be a more efficient means of administering daily investment transactions. Accordingly, applicants believe that the criteria for issuance of an order are met.

**Applicants' Conditions**

Applicants agree to the following conditions in any order of the SEC granting the requested relief:

1. A separate custodian cash account will be established at the custodian bank into which each Fund will cause its uninvested net cash balances to be deposited daily.

2. Cash in the joint account will be invested solely in repurchase agreements collateralized by suitable U.S. government obligations (*i.e.*, obligations issued or guaranteed as to principal and interest by the U.S. government or by any of its agencies or instrumentalities). Each repurchase agreement will satisfy the most restrictive standards for repurchase agreement transactions set by any Fund participating in a particular repurchase agreement transaction. Each repurchase agreement will have, with rare exceptions, an overnight or over-the-weekend duration, and in no event will it have a duration of more than seven days.

3. Each Fund relying on rule 2a–7 under the Act, in order to value its assets on the basis of amortized cost, will use the average maturity of the joint account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in the account on that day.

4. To eliminate the possibility of one Fund using any part of the balance of the joint account credited to another Fund, no Fund will be allowed to create a negative balance in the joint account; provided, however, that a Fund will be permitted to draw down its entire balance at any time. Each Fund's decision to invest in the joint account will be solely at the Fund's option. A Fund will not be required either to invest a minimum amount or to maintain a minimum balance. Each Fund will retain sole ownership rights to all of its assets invested in the joint account, including interest payable on such assets. Each Fund's investment in the joint account will be documented daily on the books of both the Fund and the custodian bank.

5. A fund will participate in the instruments held in the joint account and any interest earned or accrued thereon on the basis of its percentage share of the account's then total balance.

6. No adviser will collect an additional fee from any Fund for managing the joint account.

7. The administration of the joint account will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

8. The board of directors of each Fund participating in the joint trading account will adopt procedures pursuant to which the joint trading account will operate, which will be reasonably designed to provide that the requirements of the application will be met. The board will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, the board will determine, no less frequently than annually, whether the joint trading account has been operated in accordance with such procedures.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7825 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20160; 811–5936]**

## Money Market Trust; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** Money Market Trust.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on March 10, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is a trust organized under the laws of the State of New York. On October 11, 1989, applicant registered as an investment company under the Act, and on February 2, 1990, applicant filed a registration statement on Form N–1A to register its shares. While in operation, applicant had two interestholders: Money Market Fund, a portfolio of First Funds of America; and Money Market Portfolio, a portfolio of First Cash Funds of America. Applicant did not issue shares to the general public.

2. At a meeting held on October 30, 1992, applicant's board of trustees approved the reorganization, termination and deregistration of applicant. In this reorganization, applicant's interestholders would be acquired by Prime Fund, a portfolio of Pacific Horizon Funds, Inc., and concurrently, Prime Fund would acquire all of applicant's assets and liabilities.

3. On February 25, 1993, at a special meeting, applicant's interestholders approved a plan of reorganization. On March 1, 1993, pursuant to the plan, Prime Fund acquired all of the assets and liabilities of Money Market Fund and Money Market Portfolio in exchange for shares of Prime Fund, and these shares were distributed, with the same net asset value, to the shareholders of Money Market Fund and Money Market Portfolio. Concurrently,

applicant transferred all of its assets and liabilities to its sole interestholder, Prime Fund.

4. One-third of the expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no securityholders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7774 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 35–26012]**

## Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 25, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the applicant(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 18, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### Public Service Company of New Hampshire (70–8367)

Public Service Company of New Hampshire ("PSNH"), 1000 Elm Street, Manchester, New Hampshire 03105, a public-utility subsidiary company of Northeast Utilities ("NU"), Selden Street, Berlin Connecticut 06037, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act.

By order dated December 16, 1992 (HCAR No. 25710), the Commission authorized, among other things, the continued use of a revolving credit facility ("Facility") that became available to PSNH before it was subject to Commission jurisdiction. In conjunction with the Facility, PSNH entered into a revolving credit agreement dated May 16, 1991 among the banks named therein ("Banks"), Bankers Trust Company, Chemical Bank and Citibank, N.A., as co-agents, and Chemical Bank, as administrative agent ("Revolving Credit Agreement").

Under the Revolving Credit Agreement, PSNH has commitments from the Banks for an aggregate of $125 million in short-term borrowings. PSNH's obligations under the Revolving Credit Agreement are secured by a second mortgage on certain of PSNH's assets. PSNH pays quarterly to each participating Bank a facility fee ("Facility Fee") equal to 25 basis points per annum of that Bank's commitment, and it pays an agency fee to each of the co-agents and the administrative agent as agreed to from time to time. The Revolving Credit Agreement currently expires on May 14, 1994.

PSNH now proposes to extend the term of the Revolving Credit Agreement through May 14, 1996, and to amend certain financial covenants and other provisions in the Revolving Credit Agreement to account for the agreement's extended term. In an effort to make conforming changes required by the extension of the term of the Revolving Credit Agreement and to account for an increase in the Facility Fee charged by the Banks, PSNH proposes to make the following additional amendments:

(1) PSNH will be required to maintain a ratio of operating income to interest expense on a rolling four quarters basis, measured at the end of each quarter, through September 30, 1994 of 1.50 to 1 and from December 31, 1994 through May 14, 1996 of 1.75 to 1;

(2) PSNH will be required to maintain a common equity to total capitalization ratio through June 30, 1994 of 0.21 to 1, from July 1, 1994 through June 30, 1995 of 0.23 to 1, and from July 1, 1995 through May 14, 1996 of 0.25 to 1; and

(3) The Facility Fee charged to PSNH under the Revolving Credit Agreement may be increased from 25 basis points per annum to a higher amount that has not yet been negotiated, but will not exceed a maximum of 37.5 basis points per annum.

In consideration of the extension, the Banks will charge PSNH an extension fee that has not yet been negotiated but will not exceed 15 basis points of their respective commitments under the Revolving Credit Agreement, or up to $187,500 in the aggregate.

Interest on borrowings under the Revolving Credit Agreement accrues on one or more of four bases, at PSNH's option. The first is a "Eurodollar Rate" equal to the average of the co-agents' London interbank offered rates plus a margin of 50 basis points. The second interest rate option is a "CD Rate" equal to the average of the co-agents' certificate of deposit rates plus a margin of 87.5 basis points. The third interest rate option is an "Alternate Base Rate" equal to the greater of Chemical Bank's prime lending rate or the Federal Funds Rate in effect plus a margin of 50 basis points. The final interest rate option is a rate bid by some or all of the participating banks in a competitive bid procedure. The margins on Eurodollar Rate, CD Rate and Alternate Base Rate borrowings increase by 25 basis points if either Standard & Poor's Corporation ("S&P") or Moody's Investor Service, Inc. fails to give PSNH's first mortgage bonds an investment grade rating, and by 37.5 basis points if the advance on which that interest is accruing would be considered a "Highly Leveraged Transaction" under applicable banking regulations. On March 1, 1994, S&P downgraded its rating PSNH's first mortgage bonds to "BB+," which is not an investment grade rating, therefore, the 25 basis point additional margin is currently in effect.

Borrowings under the Eurodollar Rate option can have maturities on one, two, three or six months. Borrowings under the CD Rate option can have maturities of 30, 60, 90 or 180 days. Borrowings under the Alternate Base Rate option can be repaid at any time prior to the termination of the Revolving Credit Agreement.

### Appalachian Power Company, et al. (70–8377)

Appalachian Power Company ("APCo"), Columbus Southern Power

Company ("CSPCo"), Indiana Michigan Power Company ("I&M"), Kentucky Power Company ("KPCo") and Ohio Power Company ("OPCo") (collectively, "Companies"), all electric public-utility subsidiary companies of American Electric Power Company, Inc., a registered holding company, have filed an application-declaration under sections 9 (a), (10) and 12(c) of the Act and Rule 42 thereunder.

The Companies each propose to acquire for cash, through June 30, 1996, up to the entire amount of the previously issued and outstanding series of first mortgage bonds and cumulative preferred stock ("Outstanding Securities") through tender offer, negotiated, open market or any form of purchase or otherwise by means other than redemption. The Companies are currently precluded from redeeming the Outstanding Securities due to refunding or redemption restrictions.

The Companies propose to acquire the following Outstanding Securities.

APCo First Mortgage Bonds

| Series | Principal amount outstanding |
|---|---|
| 9⅛% Series due 2019 | $47,500,000 |
| 9⅞% Series due 2020 | 48,000,000 |
| 9.35% Series due 8/1/2021 | 50,000,000 |
| 8.75% Series due 2/1/2022 | 50,000,000 |
| 8.70% Series due 5/22/2022 | 40,000,000 |
| 8.50% Series due 12/1/2022 | 70,000,000 |

CSPCo First Mortgage Bonds

| Series | Principal amount outstanding |
|---|---|
| 8.95% Series due 12/20/95 | $30,000,000 |
| 9.15% Series due 2/2/98 | 57,000,000 |
| 9.625% Series due 6/1/2021 | 50,000,000 |
| 9.31% Series due 8/1/2001 | 30,000,000 |
| 8.70% Series due 7/1/2022 | 35,000,000 |
| 8.55% Series due 8/1/2022 | 15,000,000 |

CSPCo Cumulative Preferred Stock

| Series | Shares outstanding |
|---|---|
| 9.50% Series of $100 par value | 750,000 |

I&M First Mortgage Bonds

| Series | Principal amount outstanding |
|---|---|
| 9.50% Series due 5/1/2021 | $40,000,000 |
| 8.75% Series due 5/1/2022 | 50,000,000 |
| 8.50% Series due 12/15/2022 | 75,000,000 |

KPCo First Mortgage Bonds

| Series | Principal amount outstanding |
|---|---|
| 8.95% Series due 5/10/2001 | $20,000,000 |
| 8.90% Series due 5/21/2001 | 40,000,000 |

OPCo First Mortgage Bonds

| Series | Principal amount outstanding |
|---|---|
| 9⅞% Series due 2020 | $50,000,000 |
| 9.625% Series due 6/1/2021 | 50,000,000 |
| 8.80% Series due 2/10/2022 | 50,000,000 |
| 8.75% Series due 6/1/2022 | 50,000,000 |

No Company will acquire any of the Outstanding Securities unless the estimated present value of the savings to be derived from the net difference between interest or dividend payments on a new issue of comparable securities and those securities acquired, is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate.

**Seneca Resources Corp., et al. (70–8385)**

Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York, 14203, and Empire Exploration, Inc. ("Empire"), 14 Lafayette Square, suite 1200, Buffalo, New York, 14203, both wholly-owned non-utility subsidiaries of National Fuel Gas Company ("NFG"), a registered holding company, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rule 42 promulgated thereunder.

Seneca and Empire propose to merge Empire into Seneca. The purpose of the merger is to consolidate all of the gas production operations and facilities of NFG and its subsidiaries into one corporation.

Upon consummation of the merger, Empire would cease to exist, and all of its common stock would be surrendered and cancelled. In addition, all of Empire's facilities and assets would be acquired by Seneca and entered onto its books with their book value. These facilities and assets consist of about 2,200 gas wells, 789,000 gross leasehold acres with oil and gas exploration and production rights, and various other facilities such as gathering lines, well equipment and auxiliary facilities. The total original cost of these facilities and assets was $87,256,000, which includes, for example, all transportation and construction costs incurred to place the assets in service. After depreciation, these facilities and assets had a book value of $53,211,000 on January 31, 1994. Current assets of $3,231,000 and other assets of $610,000 bring the total assets, less accumulated depreciation, to $57,052,000. In addition, all of the liabilities of Empire would be assumed by Seneca. These liabilities, which include short-term debt, totaled $41,046,000 on January 31, 1994.

**Energy Initiatives, Inc., et al. (70–8395)**

Energy Initiatives, Inc. ("EII"), One Upper Pond Road, Parsippany, New Jersey 07054, a non-utility subsidiary of General Portfolios Corporation ("GPC"), and GPC, Mellon Bank Center, Tenth and Market Streets, Wilmington, Delaware 19801, a non-utility subsidiary of General Public Utilities Corporation ("GPU"), and GPU, 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rule 42 thereunder.

By order dated November 2, 1988 (HCAR No. 24738) ("1988 Order"), GPU was authorized, among other things, to organize and acquire all of the common stock of GPC. The 1988 Order also authorized GPC to acquire all of the common stock of EII from Jersey Central Power & Light Company, a wholly-owned subsidiary of GPU. By order dated March 22, 1989 (HCAR No. 24843), GPU was granted the authority to contribute to GPC 51, 975 shares of ACE Limited and 7,866 shares of Excel Limited, both Cayman Island corporations.

GPU now proposes to merge GPC into EII, with EII becoming the surviving entity. Upon consummation of the merger, all of the outstanding 100 shares, no par value, of GPC common stock owned by GPU would be cancelled and EII would succeed to all of the assets and liabilities of GPC, including the shares of ACE Limited and Excel Limited and EI Fuels Corp., presently a wholly-owned subsidiary of GPC. After the merger, all 100 outstanding shares of EII, now held by GPC, would be transferred to GPU and, consequently, EII would become a direct, wholly-owned subsidiary of GPU.

It is stated that GPC is being merged out of existence because the reasons for its creation and continued existence no longer exist. When GPC was organized in 1988, it was anticipated that GPU would, subject to further Commission authorization, be investing in various non-rate regulated activities, in addition to EII, and that GPC would serve as the single vehicle through which such other investments would be made, managed and controlled. For a number of reasons,

including subsequent amendments to the Internal Revenue Code, GPU has not made such investments and does not now anticipate doing so in the foreseeable future. Consequently, apart from its ownership of EII, and of the ACE Limited and Excel Limited shares, GPC has not been actively engaged in any business activities since its organization.

For the Commission, by the Division of Investment, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7769 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20162; 811–5938]**

## Treasury Money Trust; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** Treasury Money Trust.

**RELEVANT ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on March 10, 1994.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 6 St. James Street, Boston, Massachusetts 02116.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 272–3809, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### Applicant's Representations

1. Applicant is a trust organized under the laws of the State of New York. On October 11, 1989, applicant registered as an investment company under the Act, and on February 16, 1990 filed a registration statement on Form N–1A to register its shares. While in operation, applicant had two interestholders: Treasury Money Fund, a portfolio of First Funds of America; and Treasury Portfolio, a portfolio of First Cash Funds of America. Applicant did not issue shares to the general public.

2. At a meeting held on October 30, 1992, applicant's board of trustees approved the reorganization, termination and deregistration of applicant. In this reorganization, applicant's interestholders would be acquired by Treasury Only Fund, a portfolio of Pacific Horizon Funds, Inc., and concurrently, Treasury Only Fund would acquire all of applicant's assets and liabilities.

3. On February 25, 1993, at a special meeting, applicant's interestholders approved the plan of reorganization. On March 1, 1993, pursuant to the plan, Treasury Only Fund acquired all of the assets and liabilities of Treasury Money Fund and Treasury Portfolio in exchange for shares of Treasury Only Fund, and these shares were distributed, with the same net asset value, to the shareholders of Treasury Money Fund and Treasury Portfolio. Applicant transferred all of its assets and liabilities to its sole interestholder, Treasury Only Fund.

4. One-third of the expenses incurred in connection with the reorganization were paid by Pacific Horizon, and the balance was paid by Bank of America N.T. & S.A., Pacific Horizon's investment adviser, and Concord Holding Corporation, Pacific Horizon's administrator.

5. Applicant has no debts or other liabilities outstanding, and is not a party to any litigation or administrative proceeding. Applicant has no securityholders at the time of filing of the application.

6. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. Applicant will be terminated under state law.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7773 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–20167; 812–8322]**

## The Valiant Fund, et al.; Notice of Application

March 25, 1994.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

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**APPLICANTS:** The Valiant Fund (the "Trust"); Integrity Management & Research, Inc. (the "Manager"); David L. Babson & Co., Inc. (the "Sub-Adviser"); and Integrity Investments, Inc. (the "Distributor").

**RELEVANT ACT SECTIONS:** Conditional order requested under sections 6(c) and 17(b) granting an exemption from sections 17(a)(1), 17(a)(2), and 17(e)(1).

**SUMMARY OF APPLICATION:** Applicants seek a conditional order permitting any series of the Trust which is a money market fund (a "Fund") to (a) engage in transactions in repurchase agreements, short-term obligations, and tax-exempt obligations with banks that are affiliated persons of the Fund, or affiliated persons or affiliated persons of the Fund, solely because the banks own 5% or more (but less than a controlling interest) of the outstanding securities of the Fund (an "Affiliated Bank"); (b) engage in transactions in U.S. government securities with a primary dealer in such securities which is an affiliated person of a Fund solely by reason of being an Affiliated Bank, or an affiliated person of an Affiliated Bank (i.e., an affiliated person of an affiliated person of the Fund) (an "Affiliated Dealer"); and (c) pay compensation to Affiliated Banks or Affiliated Dealers within the limits of section 17(e)(2) where they act as agent for the Fund in permitted transactions. Applicants request that any relief granted pursuant to the application also apply to future investment companies that are money market funds and for which the Manager or any entity controlling, controlled by, or under common control with the Manager may serve as investment adviser or for which the Distributor or any entity controlling, controlled by, or under common control with the Distributor may serve as principal underwriter.

**FILING DATE:** The application was filed on March 23, 1993, and amended on June 1, 1993, and February 28, 1994. By letter dated March 24, 1994, counsel, on behalf of applicants, agreed to file a further amendment during the notice period to make certain technical changes. This notice reflects the changes to be made to the application by such further amendment.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1994, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, the Trust, 440 Lincoln Street, Worcester, Massachusetts 01532; the Manager and the Distributor, 1715 Stickney Point Road, suite C7, Sarasota, Florida 34231; the Sub-Adviser, One Memorial Drive, Cambridge, Massachusetts 02142.

**FOR FURTHER INFORMATION CONTACT:** John V. O'Hanlon, Senior Attorney, at (202) 272–3922, or C. David Messman, Branch Chief, at (202) 272–3018 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reverence Branch.

**Applicant's Representations**

1. The Trust is an open-end management investment company organized as a Massachusetts business trust. The Trust offers four separate Funds: The U.S. Treasury Money Market Portfolio, the U.S. Treasury Income Portfolio, the General Money Market Portfolio, and the Tax-Exempt Money Market Portfolio. The Funds are money market funds that use the amortized cost method to value portfolio securities pursuant to rule 2a–7. The Manager acts as the investment adviser to the Funds, and the Distributor acts as the principal underwriter to the Funds. The Manager has contracted with the Sub-Adviser to manage the Funds' portfolios.

2. The Funds are designed exclusively for short-term investment of funds held in institutional accounts. Shares of the Funds are sold only to banks and other institutional investors that enter into servicing agreements with the Distributor. Such investors typically seek investment of funds on behalf of accounts for which they act in an agency, trustee, custodial, or other fiduciary capacity.

3. Because the Funds are designed for short-term investments, the number of shares of the Funds held by the Funds' shareholders could fluctuate significantly, even on a daily basis. From time to time, the number of shares of one of the Funds held by a bank may exceed 5% of such Fund's outstanding voting shares. The Funds began operations in July 1993, and are relatively small. As a result, a small investment by a bank could cause it to become an Affiliated Bank.

**Applicants' Legal Analysis**

1. Applicants seek an order permitting (a) a Fund to enter into repurchase agreements with an Affiliated Bank; (b) a Fund to enter into purchase and sales transactions with respect to obligations having one year or less to maturity issued by an Affiliated Bank ("short-term obligations"); (c) a Fund to enter into purchase and sales transactions with respect to tax-exempt obligations from or through an Affiliated Bank; (d) a Fund to enter into purchase and sales transactions with respect to U.S. government securities from or through a primary dealer in such securities which is an Affiliated Dealer; and (e) an Affiliated Bank or Affiliated Dealer to accept compensation within the limits of section 17(e)(2) when it acts as agent for any Fund in a permitted transaction.

2. Section 2(a)(3) of the Act provides, in pertinent part, that any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of any other person is an affiliated person of that person. Thus, a bank that is a record owner of 5% or more of the outstanding shares of one of the Funds on behalf of the bank's agency and fiduciary accounts may be deemed to be an affiliated person of each of the Funds.

3. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from selling to or purchasing from such registered company, or any company controlled by such registered company, any security or other property.

4. Section 17(e)(1) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as agent, from accepting from any source compensation, other than a regular salary or wages from such registered company, for the purchase or sale of any property to or for such registered company or any controlled company thereof, except in the course of such person's business as an underwriter or broker. Section 17(e)(2) provides that an affiliated person of a registered investment company, acting as broker in connection with the sale of securities to or by such registered company or any controlled company thereof, may not receive from any source a commission, fee, or other remuneration for effecting such transaction which exceeds certain specified levels. Applicants state that a bank that wished to purchase or sell securities for a Fund could not satisfy the Act's definition of "underwriter," and is specifically excluded from the definition of "broker." Thus, it could not rely on the "safe harbor" of section 17(e)(2) or the "except" clause in section 17(e)(1).

5. Section 17(b) provides that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 6(c) provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants state that section 17(a)'s prohibition against securities transactions between the Funds and an Affiliated Bank or Affiliated Dealer unreasonably reduces the breadth of investment alternatives available to the Funds. Applicants anticipate that a number of banks with which the Funds otherwise would effect transactions will become Affiliated Banks. Applicants assert that the disqualification of even a

few major banks from the universe of money market instrument issuers and dealers with whom the Funds may do business would significantly disadvantage the Funds' shareholders by unduly restricting and inhibiting proper portfolio management, and by increasing the Funds' exposure to adverse credit risks. Applicants also are concerned that a Fund inadvertently may engage in securities transactions with an Affiliated Bank or Affiliated Dealer.

7. Without relief from section 17(e)(1), Affiliated Banks and Affiliated Dealers are unable to accept compensation where they act as agent for the Funds in connection with the purchase of securities from the Funds or the sale of securities to the Funds. Applicants are concerned that section 17(e)(1)'s prohibition inhibits the Funds' discretion to select the best broker available for execution of their securities transactions.

8. Applicants will create internal control procedures for the careful monitoring of securities transactions with Affiliated Banks and Affiliated Dealers. These procedures, which are described in the conditions set forth below, will place responsibility for monitoring the fairness of such transactions on the trustees of the Trust.

9. Applicants state that there is no express or implied understanding between any applicant and any bank (or its bank holding company or affiliated persons) that is (or may become) an Affiliated Bank that the Manager or the Sub-Adviser will cause any of the Funds to enter into transactions with such bank (or its bank holding company or affiliated persons). Moreover, applicants specifically state that the Funds do not intend and are not requesting exemptive relief under the Act in order to permit allocation of securities transactions to banks (or their bank holding companies or affiliated persons) based upon investment in any of the Funds by such banks or their clients and customers. The Sub-Adviser represents that, consistent with its fiduciary duties to the Funds, it will initiate all purchase and sale transactions between a Fund and an Affiliated Bank (or its bank holding company or affiliated persons) and that it will enter into such transactions with the interests of the Funds' shareholders solely in mind.

10. Applicants note that the Funds are money market funds subject to rule 2a–7. Rule 2a–7 imposes investment restrictions requiring that the Funds diversify their portfolios and hold only high quality securities subject to minimal credit risk, and certain record-keeping and reporting requirements. Applicants submit that rule 2a–7's restrictions and requirements also minimize opportunities for abuse.

11. Based upon the foregoing, applicant believes that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transactions are consistent with the policy of each of Funds, and that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

**Applicants' Conditions**

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The board of trustees of the Trust (a) will adopt procedures, pursuant to which transactions may be effected for the Funds, which are reasonably designed to provide that the conditions in paragraphs 2 through 7 below and the requirements of Investment Company Act Release No. 13005 (February 2, 1983) have been complied with; (b) will make and approve such changes as the board deems necessary; and (c) will determine no less frequently than quarterly that such transactions made during the preceding quarter were effected in compliance with such procedures. These procedures also will be approved by a majority of the non-interested trustees of the Trust. The investment adviser of each Fund will implement these procedures and make decisions necessary to meet these conditions, subject to the direction and control of the board of trustees of the Trust.

2. No Fund will engage in securities transactions with an Affiliated Bank (or its bank holding company or affiliated persons) that is an investment adviser to such Fund. No Fund will purchase short-term obligations of an Affiliated Bank (or its bank holding company or affiliated persons) if, as a result, more than 5% of its total assets would be invested in such obligations of the Affiliated Bank (or its bank holding company or affiliated persons). No Fund will engage in transactions with an Affiliated Bank or Affiliated Dealer that exercises a controlling influence over that Fund (and "controlling influence" shall be deemed to include, but is not limited to, directly or indirectly, owning, controlling, or holding more than 25% of the outstanding voting securities of the Fund).

3. The Funds (a) will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1, and (b) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or materials upon which the determinations described below were made. Without limiting the foregoing, such record will, for each transaction, document the quotations required by condition 5 below, including the names of the dealers, the names of the securities, the prices quoted, and the times and dates the quotations were received.

4. The security to be purchased or sold by a Fund will be consistent with the investment objectives and policies of that Fund as recited in the Fund's registration statement, and will be consistent with the interests of that Fund and its shareholders. Further, the security to be purchased or sold by that Fund must be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for the Fund and that are being purchased or sold during a comparable period of time. In the case of transactions in Unrated Securities, as defined in rule 2a–7(a)(20), in addition to the requirements of rule 2a–7 applicable to such Unrated Securities, all determinations with respect to comparability of such securities to rated securities will be reviewed and approved at least quarterly by a majority of the Fund's trustees who are not interested persons of the Fund.

5. The terms of the transactions must be reasonable and fair to the shareholders of the Fund and cannot involve overreaching of the Fund or its shareholders on the part of any person concerned. In considering whether the price to be paid or received for a security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time. With respect to purchase or sale transactions, the Funds or their advisers must obtain such information as they deem necessary to determine that the price to be paid or received for the security is at least as favorable as that available from other sources. With respect to transactions involving repurchase agreements, the Funds or their advisers must obtain such

information as they deem necessary to determine that the income to be earned from the repurchase agreement is at least equal to that available from other sources. Without limiting the foregoing, in making such determinations, the Funds or their advisers will obtain competitive quotations from at least two other dealers with respect to the type of security involved (the same instrument, credit rating, maturity, and segment, if any, but not necessarily the identical security or issuer), except that if quotations are unavailable from two such dealers, only one other competitive quotation is required. With respect to prospective purchases of securities, these dealers must be those who have securities of the categories and the type desired in their inventories and who are in a position to quote favorable prices with respect thereto. With respect to the prospective disposition of securities, these dealers must be those who, in the experience of the Funds and their advisers, are in a position to quote favorable prices.

6. The commission, fee, spread, or other remuneration to be received by the Affiliated Bank or Affiliated Dealer must be reasonable and fair compared to the commission, fee, spread, or other remuneration received by brokers or dealers in connection with comparable transactions involving similar securities being purchased or sold during a comparable period of time, but in no event will such fee, commission, spread, or other remuneration exceed that which is stated in section 17(e)(2) of the Act.

7. Any repurchase agreement will be collateralized fully within the meaning of rule 2a–7.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7767 Filed 3–31–94; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

### Specialized Small Business Investment Companies

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** The Small Business Administration (SBA) has completed the 3% Preferred Stock Repurchase Pilot Program for Small Business Investment Companies licensed under section 301(d) of the Small Business Investment Act (15 U.S.C. 681(d)) (Specialized SBICs or SSBICs), and now will offer each currently licensed SSBIC that was not in the Pilot Program the opportunity to apply for the repurchase of its 3% preferred stock held by SBA. This Notice sets forth the guidelines SBA is intending to follow in its implementation of this Repurchase Program.

**DATES:** This Notice is effective on April 1, 1994 Written comments on this Notice must be received no later than May 2, 1994.

**ADDRESSES:** Written comments should be sent to Robert D. Stillman, Associate Administrator for Investment, U.S. Small Business Administration, suite 6300, 409 Third Street SW., Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** George Dale, Investment Division, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205–7595.

**SUPPLEMENTARY INFORMATION:** On June 19,1992, SBA published a Notice in the **Federal Register** (the Pilot Notice) announcing the commencement of the 3% Preferred Stock Repurchase Pilot Program for Small Business Investment Companies licensed under section 301(d) of the Small Business Investment Act of 1958, as amended (Specialized SBICs or SSBICs). See 57 FR 27503.

**Policy Statement**

The policy for the Repurchase Program was stated in the Pilot Notice, and is repeated verbatim as follows:

"SBA's policy is to administer the Repurchase Program in such a way as to maximize the capacity of SSBICs to provide financing to businesses owned by persons whose participation in the free enterprise system is hampered by social or economic disadvantage

SBA will structure each transaction with the aim of:

1. Encouraging and facilitating the investment of new private capital into SSBICs;

2. Conserving the cash resources of each participant;

3. Conserving the borrowing potential of each participant;

4. Conserving the direct and guaranty budget of the Specialized SBIC program;

5. Improving the financial status of the participating SSBICs;

6. Rehabilitating (where necessary) weak SSBICs to improve their financial and operating effectiveness without undue risk to SBA; and

7. Discouraging voluntary liquidations of SSBICs and the premature surrender of licenses.

The methodology of computing the price at which the 3% preferred stock is sold back to an SSBIC will be a function of four factors independent of any SSBIC, and four factors that are variable with each SSBIC. The independent factors are:

1. Average SBIC Treasury-based 10 year rate,

2. Barron's Junk Bond Spread over Treasury,

3. Preferred stock dividend rate (3%), and

4. The adjustment to the price for non-marketability of shares.

The four factors that are variable with each individual SSBIC are:

1. Number of years that dividends are in arrears,

2. Financial rating of SSBIC, as rated by SBA,

3. Ability of SSBIC to have paid dividends, and

4. Par value of stock to be purchased.

The above policy will be executed in such a way as to prevent windfall opportunities to SSBICs, their managements, or owners; and to avoid transfer of cash flows from SSBICs into SBA to the detriment of the program's effectiveness and liquidity."

**Implementation of the Repurchase Program**

In accordance with the Pilot Notice, SBA selected nine Specialized SBICs which had indicated an interest in participating in the Pilot Program. The nine licensees represented a cross-section of the industry, including both financially distressed and non-distressed companies. SBA considered and structured each repurchase transaction in accordance with the policy restated above.

Of the nine companies selected to participate in the Pilot Program, six have completed the repurchase of their stock. Of the remaining three companies, one withdrew voluntarily, one never submitted an application, and one was denied participation because of regulatory violations which would not have been cured by the repurchase.

As stated in the Pilot Notice, the objective of the Pilot Program was to test SBA's Repurchase Program procedures and to suggest changes that might facilitate future transactions. Many of the issues raised during the Pilot Program concerned the following:

1. Development of a formula for determining the repurchase price;

2. Special considerations dependent on the financial condition of SSBICs;

3. Application of the Repurchase Program to companies which are involved in change of ownership transactions; and

4. Methods and conditions of financing the repurchase. Approaches to these issues, and their resolution for the Repurchase Program, are described below:

*1. Repurchase Price Formula*

A repurchase price formula was developed in general accordance with the methodology included in the policy statement repeated above, and applied to the particular situation of each of the pilot participants. The formula for the preferred share price was a substitute for fair market value, since there is no market for these shares. Based on the recommendations of two independent expert studies, the formula for computing the percentage of par value to be used in the Pilot Program was the sum of three elements:

(1) The percentage of par which represented the differential between an instrument paying 3% and the "all-in" cost of the June 1991 SBIC funding rate. This differential represented a discount from par, since a 3% return was significantly below the market rate at June 1991. The percentage of par value remaining after subtracting the discount computed to 32.05%.

(2) An adjustment based on the financial rating of the particular SSBIC, plus an adjustment based on a junk bond spread over Treasures, plus an adjustment for lack of marketability of the 3% preferred stock. In practice, these adjustments added only 2% to 4% to the price for individual companies in the Pilot Program.

(3) The third element represented the present value of the benefit to the SSBIC from deferring payment of preferred dividends which it had the capacity to pay.

In view of the very small effect of the second element on overall valuation, the complexity of its computation, and the extent of financial data and analysis required for its determination, SBA has decided to substitute a fixed input of 3% for the Repurchase Program. This was the midpoint of the range of adjustments for this element in the Pilot Program.

SBA also determined that the third element may be duplicative of the continuing obligation of a licensee to pay accrued dividends under certain conditions enumerated herein. Consequently, only the first two elements will be utilized in determining the price for the preferred shares being repurchased.

For the Repurchase Program, SBA intends to fix the sum of the two elements at 35% of par value, using the June 1991 interest rate inputs in recognition of the extended delay in completing the Pilot Program. Thus, the price to be paid by any SSBIC repurchasing 3% preferred stock under this Program will be 35% of par. This compares with a range of repurchase prices calculated for all of the pilot participants of 34.6554% to 36.2257% of par value.

To avoid a windfall, and to assure the desired result of retaining funds in an active SSBIC program, repurchases below par during the Pilot Program were made on condition that if the licensee became inactive or was liquidated during a five year period following the repurchase, SBA would have a preferred liquidating interest in the licensee. SBA intends to continue this practice for the remainder of the Repurchase Program, as described below under "Other critical terms of the repurchase transactions."

*2. Special Considerations Dependent Upon Financial Condition of SSBIC*

SBA's evaluation of the Pilot Program has led it to conclude that in order to be consistent with the stated policy objectives of the Program, the amount and the timing of any required payment of accrued dividends should be related to the financial strength of the particular SSBIC purchasing its preferred stock from SBA.

For an SSBIC which has no practical prospect of making dividend payments, the Repurchase Program will assist in strengthening the licensee's financial condition and enabling it to attract new capital.

For those SSBICs which are financially strong enough to make dividend payments, the program objectives are met if the deferral or reduction of dividend payments provides an incentive for the SSBIC to remain active in its investment program, and to defer distributions to its shareholders.

Accordingly, the following guidelines have been developed to distinguish between the two categories of SSBICs and to provide for the treatment of accrued dividends for each category:

(a) Companies which lack any reasonable prospect of paying accrued dividends are defined as those which, as of the licensee's fiscal year end immediately preceding the publication of this Notice, have undistributed realized losses and a capital impairment percentage (as defined in 13 CFR part 107) of at least 10%. These licensees are referred to as "distressed" for purposes of the Repurchase Program. For distressed licensees, the accrued dividends will be extinguished completely at the time of repurchase. This will remove a contingent liability which would otherwise impede their efforts to raise new capital. In the distressed licensee's repurchase agreement with SBA, the company will agree to remain active for a five year period and to be subject to the guidelines for change of ownership transactions discussed below.

(b) For the remaining "non-distressed" SSBICs, which have a reasonable prospect of being able to pay accrued dividends, forgiveness of the dividends by SBA will be used as an inducement to defer distributions of cash out of the program, either to SBA or the owners. In these cases, forgiveness is conditioned on their agreement to remain active in the SSBIC program for a five year period, during which time the accrued dividends are reduced on a straight-line basis over a period of five years or the term of any debt incurred to finance the repurchase, whichever is longer. Distributions to owners may be made only after paying the remaining dividends payable to SBA. The licensee will agree to be subject to the guidelines for change of ownership transactions discussed below.

*3. Change of Ownership Transactions*

For SSBICs that engage in a change of ownership either before or after the repurchase of their 3% preferred stock, it is necessary to avoid having the benefits of the repurchase result in a windfall to the seller or buyer, rather than increasing the funds available for investment by the SSBIC. To avoid having a prospective repurchase of 3% preferred stock affect the purchase price of the company, the following policy has been adopted:

(a) Where the selling SBIC is "distressed", the dividends accrued at the time of repurchase will be forgiven. The preferred stock may be repurchased at the formula price, subject to the agreement of the purchaser to operate as an active SSBIC, and if operations are discontinued or the SSBIC liquidated within five years, to pay SBA the amount of its liquidating interest, as described under "Other critical terms of the repurchase transactions" below.

(b) Where the selling SSBIC is not "distressed", the remaining balance of accrued dividends as of the date of the change of ownership must be paid before any future distributions are made by the licensee. In addition, the purchaser must agree to the conditions concerning active operation described in the preceding paragraph.

*4. Financing the Repurchase*

Since the purpose of the Repurchase Program is to strengthen the financial condition of SSBICs, the most desirable source of financing for the repurchase transaction is new capital invested in the SSBIC. Financing with cash already in the SSBIC is inconsistent with the policy of avoiding the transfer of cash

flows from SSBICs into the SBA. Experience in the Pilot Program, however, confirmed that new capital is not available to all participants, particularly those which are in financial distress. Consequently, payment of the repurchase price for the participating companies was structured in one of four ways: (1) All cash, following the raising of new capital, (2) a promissory note payable to SBA in exchange for the preferred stock, (3) all cash, from third-party unsecured financing, or (4) a combination of any of the above.

Where borrowings from SBA or third parties are used to finance the repurchase, they are intended to provide interim financing while permanent equity capital is raised. SBA loans made for this purpose will be at an interest rate which is 2% higher than the Treasury rate for a comparable maturity, and any such loans must fully amortize if longer than five years. SBA loans will provide the Agency with a security interest in the licensee's assets and will contain restrictive covenants and conditions.

Long-term financing by SBA in the form of guaranteed debentures or 4% preferred stock is intended to be used to increase the capacity of SSBICs to invest or lend money to small businesses; consequently, it is inappropriate to use these as sources of financing for the preferred stock repurchase.

SBA shall, in its sole discretion, determine the form of payment it will accept for a licensee's 3% preferred stock, including cash or an amortizing or non-amortizing note, or a combination thereof.

Third party debt used for the repurchase must be unsecured since granting a security interest in the SSBIC's assets reduces the value of SBA's liquidating interest.

For licensees financing their repurchase through SBA or a third party, the liquidating interest held by SBA will amortize over a period of five years or the term of the repurchase debt, whichever is longer.

It is contemplated that the SSBIC will increase its private capital by an amount equal to the repurchase price, either from the proceeds of new capital invested in the SSBIC since April 1, 1993 or through the permanent capitalization of retained earnings available for distribution as permitted under program accounting rules. The amount that may be capitalized for this purpose is limited to profits generated since the licensee's fiscal year end immediately preceding the publication of this Notice.

Other terms required in connection with the use of debt financing of the repurchase are included in "Other critical terms of the repurchase transactions" below.

**Further Discussion of the Repurchase Program**

The Repurchase Program is intended to strengthen the SSBIC Program and enable it to provide additional financing to small businesses. It is not intended to transfer value from SBA to the owners of SSBICs without consideration. The proposed terms of the Repurchase Program assure these intentions are fulfilled.

It should be noted that the 3% preferred stock to be repurchased under the Repurchase Program has no provision for a "put" by SBA or mandatory redemption by the SSBIC. Further, the SSBIC is not required to pay accrued dividends to SBA; however, distributions to other shareholders may not be made until any such dividends have been paid.

The repurchase price to be paid for the preferred stock is based on actual market indicators, and is intended to represent a reasonable substitute for fair market value, since these securities are not publicly traded. For an SSBIC which does not intend to liquidate or transfer ownership in the foreseeable future, the difference between par value and the repurchase price is an unrealized loss already sustained by SBA. In this case, the sale itself does not create the loss.

An SSBIC which intends to liquidate or transfer ownership would be required, in the absence of the Repurchase Program, to pay its accrued dividends and repurchase its 3% preferred at par before any liquidating distributions could be made to its other shareholders. Nevertheless, there is often insufficient value in the licensee under such circumstances for SBA to recover the full amount due.

To avoid the opportunity for a windfall through repurchase at a price below par value and/or the forgiveness of accrued dividends, the Repurchase Program requires that as consideration for the repurchase, the SSBIC agree to remain active for a five year period. If the SSBIC liquidates or becomes inactive prior to the end of this period, it is required to pay a declining proportion of the difference between the par value and the repurchase price of the shares. This is consistent with the purpose of the Program: To encourage SSBICs to continue investing or lending funds to small businesses.

Similarly, the terms of forgiveness of accrued dividends are designed to further the purpose of the Program without providing a windfall to the SSBIC, its owners or management.

In the case of an SSBIC in financial distress, with no reasonable prospect of paying its accrued dividends, SBA is not surrendering value when it forgives such dividends. At the same time, the SSBIC program benefits from such forgiveness because it strengthens the financial condition of the SSBIC and increases the licensee's opportunities to secure additional financing or to be acquired by owners who would commit to remain active in the program.

A non-distressed SSBIC can gain the benefit of the dividend forgiveness only by agreeing to remain active in the program for five years, and to pay the dividends on a declining scale during that period (or during the term of any repurchase debt, if longer) as a precondition to any distributions to its other shareholders. This should encourage these SSBICs to defer distributions, and therefore have greater resources available for investments or loans to small businesses. Should the SSBIC become inactive, SBA will have the right to demand payment of the accrued dividends as of the end of the fiscal year for which the licensee became inactive.

In the event of a change of ownership of an SSBIC, the potential forgiveness of accrued dividends would be a factor in determining the purchase price to the new owner. To avoid the possibility that the benefit of such forgiveness might therefore benefit buyer or seller, without increasing the financial strength of the SSBIC, the terms of the repurchase provide that in this case the remaining balance of dividends accrued as of the date of the ownership change (which may have been reduced by the terms of the preferred repurchase, if completed earlier) must be paid, either at the time of sale, or later, but before any distributions are made by the new owner.

It should also be noted that SSBICs with regulatory violations that would not be cured by repurchasing their stock at a discount will be ineligible to participate in the Repurchase Program.

**Other Critical Terms of the Repurchase Transactions**

SBA has determined that it is necessary to include the following provisions in the agreements to repurchase 3% preferred stock:

1. To evidence the agreement of the SSBIC to remain active as a consideration for the opportunity to repurchase, an SSBIC repurchasing its preferred stock at a discount will be required to grant SBA a preferential limited ownership interest (the "liquidating interest") in a newly created capital account. As soon as the

repurchase is completed, this account will be credited by the SSBIC in an amount equal to the discount at which the stock was repurchased. The value of SBA's liquidating interest in the account will decline on a straight line basis over time (generally five years or the duration of any repurchase financing, whichever is longer). In the event of a change of ownership of the licensee, SBA's liquidating interest continues in effect on the same terms as would have applied had the change of ownership not taken place.

The balance in the new capital account may be included in the licensee's private capital only for purposes of calculating the licensee's "overline" limitation and its capital impairment percentage.

In order to make the SBA liquidating interest a matter of public record, the SSBIC will be required to evidence it by an amendment to its Articles of Incorporation.

2. An SSBIC that finances its repurchase through SBA or a third party lender will be expected to agree that, during the term of the financing, or until private capital in the amount of the repurchase price is raised (whichever is earlier), it will not:

a. Make any distribution in favor of any non-SBA shareholder or associate (as defined in 13 CFR 107.3) of the licensee, except with the prior approval of SBA. This is to protect the value of SBA's liquidating interest.

b. Prepay the financing without SBA's approval. This is intended to conserve the cash resources of the SSBIC, avoid the use of its idle funds for the repurchase, and avoid the transfer of cash resources from the SSBIC to SBA.

c. Apply for new leverage from SBA. This is meant to encourage the SSBIC to raise new capital for the repurchase. Refundings of existing leverage would not be restricted by this provision.

d. Grant a security interest in its assets to any party other than SBA. This is to protect the value of SBA's liquidating interest.

**Application Procedure**

After considering any comments received concerning this Notice, SBA will distribute a Policy and Procedure Release to all SSBICs announcing the commencement of the Repurchase Program and explaining the application procedures. All licensees with outstanding 3% preferred stock will then have one year to apply to repurchase their stock from SBA. No applications will be accepted after that date.

SBA intends to consider applications and process repurchases in the order in which the applications are received, subject to any special needs of severely distressed licensees. SBA anticipates that all repurchases will be completed within three years from the effective date of the final rule.

**Authority:** Title III of the Small Business Investment Act, 15 U.S.C. 681 *et seq.*; 15 U.S.C. 687(c); 15 U.S.C. 683; 15 U.S.C. 687d; 15 U.S.C. 687g; 15 U.S.C. 687b; 15 U.S.C. 687m, as amended by Pub. L. 102–366.

Dated: March 24, 1994.

**Erskine B. Bowles,**

*Administrator.*

[FR Doc. 94–7847 Filed 3–31–94; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF TRANSPORTATION

### Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS–109, implemented by Regulation ER–1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 94–2–19, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning April 1, 1994, we have projected non-fuel costs based on the year ended December 31, 1993 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department. By Order 94–3–54 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

| | |
|---|---|
| Atlantic | 1.1147 |
| Western Hemisphere | 1.1068 |
| Pacific | 1.5748 |

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: March 28, 1994.

**Patrick V. Murphy,**

*Acting Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 94–7806 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–62–P

[Docket 37554]

### Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96–192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 94–2–18 established the currently effective two-month SFFL applicable through March 31, 1994.

In establishing the SFFL for the two-month period beginning April 1, 1994, we have projected non-fuel costs based on the year ended December 31, 1993 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 94–3–50 fares may be increased by the following adjustment factors over the October 1979 level:

| | |
|---|---|
| Atlantic | 1.3221 |
| Latin America | 1.3211 |
| Pacific | 2.0197 |
| Canada | 1.4152 |

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: March 25, 1994.

**Patrick V. Murphy,**

*Acting Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 94–7807 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–62–M

## Federal Highway Administration

### Request for Participation in Public Forums for the Development of a National Intelligent Vehicle Highway Systems (IVHS) Architecture

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Department of Transportation hereby announces its interest in public participation in the definition of a national IVHS architecture. The architecture will be used to establish standards which will guide IVHS deployments and ensure the national compatibility of IVHS technology. This notice announces the dates and locations of the first series of meetings, scheduled to take place in April and May 1994. The subsequent series of meetings will be taking place in November 1994, June 1995, and May

1996. The intent of these meetings is to provide non-technical information on the architecture development efforts and receive audience feedback. Because a variety of groups are recognized as important to this definition process, the Department is interested in participation from a broad range of individuals and organizations including, but not limited to, elected officials from State and local governments, consumer groups, vehicle manufacturers and other private sector entities, transit authorities, toll authorities, small businesses, academic institutions, associations, and individual citizens.

**DATES:** The forums are scheduled as follows:

1. April 21, 1994, 8 a.m. to 4:30 p.m., Atlanta, Georgia.
2. April 26, 1994, 8 a.m. to 4:30 p.m., Washington, DC.
3. April 27, 1994, 8 a.m. to 4:30 p.m., Boston, Massachusetts.
4. April 28, 1994, 8 a.m. to 4:30 p.m., New York, New York.
5. May 4, 1994, 8 a.m. to 4:30 p.m., Chicago, Illinois.
6. May 5, 1994, 8 a.m. to 4:30 p.m., Kansas City, Missouri.
7. May 6, 1994, 8 a.m. to 4:30 p.m., Dallas/Ft. Worth, Texas.
8. May 9, 1994, 8 a.m. to 4:30 p.m., Denver, Colorado.
9. May 10, 1994, 8 a.m. to 4:30 p.m., San Francisco, California.
10. May 11, 1994, 8 a.m. to 4:30 p.m., Seattle, Washington.

**ADDRESSES:** The forums will be held at the following locations:

1. Atlanta—Atlanta Hilton & Towers, 255 Courtland Street, NE., Atlanta, Ga. 30303.
2. Washington—Marriott Crystal City, 1999 Jefferson Davis Hwy., Alexandria, Va. 22202.
3. Boston—Copley Plaza Hotel, 138 St. James Ave., Boston, Mass. 02116.
4. New York City—Roosevelt Hotel, 45 East 45th St., New York, N.Y. 10017.
5. Chicago—Ramada Hotel & Conference Center, 2875 N. Milwaukee Ave., Northbrook, Ill. 60062.
6. Kansas City—Hilton Plaza Airport, 8801 NW 112th St., Kansas City, Mo.
7. Dallas/Fort Worth—Grapevine Convention Center, 1209 S. Main St., Grapevine, Tex. 76051.
8. Denver—Embassy Suites Airport, 4444 N. Havana St., Denver, Colo. 80239.
9. San Francisco—Parc Oakland, 1001 Broadway, Oakland, Cal. 94607.
10. Seattle—Embassy Suites Hotel, 20610 44th Ave. West, Lynnwood, Wash. 98036.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Schagrin, FHWA, HTV–10, Washington, DC 20590, (202)366–2180, Fax: (202)366–8712, office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal Federal holidays; or Mr. Rick Schuman, IVHS AMERICA, 400 Virginia Avenue, SW., suite 800, Washington, D.C. 20024, (202)484–4847.

**SUPPLEMENTARY INFORMATION:**

## Background

The IVHS program is a national initiative to use computer, electronics and communications technologies to increase the performance of the Nation's surface transportation system. In the future, IVHS technologies will be applied to all types of vehicles (trucks, buses, and cars), to information devices (computers, kiosks, hand-held devices), and to all parts of the surface transportation system (freeways, urban arterial roadways, city streets, rural roads, and intermodal connections). IVHS technologies will also be used to improve safety, reduce congestion, improve air quality, and increase the Nation's economic efficiency.

The objective of the IVHS Architecture Development Program is to develop a national IVHS architecture by 1996. Teams headed by Hughes Aircraft Co. (Fullerton, CA), LORAL/IBM (Manassas, VA), Rockwell International Corp. (Anaheim, CA), and Westinghouse Electric Corp. (Baltimore, MD), have been selected by the Department to develop alternative system concepts, or "architectures," for the IVHS program.

IVHS represents an unprecedented opportunity to improve the effectiveness of our Nation's surface transportation system while at the same time helping to mitigate some of the harmful side effects, such as vehicle emissions and energy consumption. The Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–24, 105 Stat. 1914) gives DOT the responsibility of providing the leadership and guidance necessary to ensure national IVHS compatibility over the long term. The teams listed above will each be exploring different ways to achieve this compatibility.

The architecture development program began on September 15, 1993, and will proceed in two phases. Phase I will last until December 1994 and will result in the definition of multiple system architectures. Each of the teams listed above will define a unique architecture that will be flexible enough to incorporate new functions and technologies as the systems evolve over time. Each architecture will also be able to accommodate varying levels of implementation so that public agencies and private consumers can acquire only what is important to them. The architecture will also provide guidance on integrating or upgrading existing systems so as to preserve current investments.

Those teams that develop the most promising architectures will continue into Phase II. Lasting from December 1994 to July 1996, Phase II will focus on the detailed evaluation of the remaining architectures. Throughout both phases, the teams will have the opportunity to refine their architecture as they gain further knowledge and insight (through such means as the architecture forums). At the conclusion of Phase II in mid-1996, a single architecture will emerge. This resulting architecture will be used to establish standards which will guide IVHS deployments and ensure national compatibility.

At each of the meetings announced today, representatives of each of the four teams currently involved in developing alternative system definitions and deployment scenarios for a national IVHS will discuss their architecture in terms of a broad vision as well as what the socio-economic implications of each of these alternatives are. In return, feedback will be solicited from the audience, which will be used to help guide the definition of the architectures as well as support the process for selection of a single national architecture.

Because a variety of groups are recognized as important to this definition process, the Department is interested in participation from a broad range of individuals and organizations including, but not limited to, elected officials from State and local governments, consumer groups, vehicle manufacturers and other private sector entities, transit authorities, toll authorities, small businesses, academic institutions, associations, and individual citizens.

All meetings in a given series will cover the same material. Therefore, it is not necessary for interested parties to attend more than one meeting in a series. Although there is no fee to attend these meetings, pre-registration for planning purposes is requested.

**TO PRE-REGISTER CONTACT:** Valerie Cassan of IVHS America at (202) 484–4847, Fax:(202) 484–3483.

## References

The following references are provided in order to assist those individuals desiring further background information on the IVHS program. This is not a complete list of IVHS references.

1. Intelligent Vehicle Highway Systems Act of 1991, Pub. L. 102–240, title VI, part B, 105 Stat. 2189 (December 18, 1991).

2. Department of Transportation, IVHS Strategic Plan-Report to Congress (Publication No. FHWA–SA–93–009, December 1992). Available from the FHWA (HTV–10), 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2196.

3. Strategic Plan for Intelligent Vehicle Highway Systems in the United States (May 20, 1992). Available from IVHS AMERICA, 400 Virginia Ave, SW., suite 800, Washington, DC 20024–2730, (202) 484–4847.

4. Video: IVHS Technologies for Transportation. Available from the FHWA (HTV–10), 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2196.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 25, 1994.

**Rodney E. Slater,**

*Federal Highway Administrator.*

[FR Doc. 94–7777 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–22–P

## National Highway Traffic Safety Administration

**[Docket No. 93–34; Notice 3]**

## American Honda Motor Co., Inc.; Appeal of Denial of Petition for Determination of Inconsequential Noncompliance

American Honda Motor Co., Inc. (Honda) of Torrance, California has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied Honda's petition that its noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 209 be deemed inconsequential as it relates to motor vehicle safety.

This notice of receipt of Honda's appeal is published under 49 CFR 556.7 and 556.8 and does not represent any agency decision or other exercise of judgment concerning the merits of the appeal.

Honda determined that some of its seat belt assemblies installed in its vehicles failed to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies," and filed an appropriate report pursuant to 49 CFR part 573. Honda petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

More specifically, Paragraph S4.3(j)(3) of Standard No. 209 requires that "an emergency locking retractor of a Type 1 or Type 2 seat belt assembly * * * shall not lock, if the retractor is sensitive to vehicle acceleration, when the retractor is rotated in any direction to any angle of 15 degrees or less from its orientation in the vehicle * * *" In its original petition, Honda stated that the retractors on some of its assemblies lock up when they are rotated to an angle of approximately ten degrees or more. The affected assemblies involve the rear outside seating positions on approximately 1.2 million model year 1990, 1991, and 1992, and early 1993 two-door and four-door Accords. When the vehicle in which the noncomplying belt is installed is in certain parking positions such as on a steep uphill grade, the rear seat occupants are sometimes unable to pull the belt out of the retractor, and thus cannot fasten their belts. The vehicle must be moved to a more level position for the rear seat occupant to be able to put on the seat belt. Notice of receipt of the petition was published in the **Federal Register** on May 21, 1993 (58 FR 29689). The reader is referred to that notice for further information.

On January 6, 1994, NHTSA published a notice in the **Federal Register** (59 FR 795), denying Honda's petition, stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential as it relates to motor vehicle safety. The reader is referred to that notice for a further discussion of the agency's rationale in denying Honda's petition.

On February 23, 1994, Honda submitted a request that the agency reconsider its decision to deny Honda's petition. Honda stated that it had failed to provide the agency with information which it believes will justify reconsideration of its petition. In its request Honda better defined what occurs in particular vehicle orientations. When a noncompliant vehicle is parked pointing downhill, the retractors fully comply with the standard. When a vehicle is parked pointing uphill, the retractors lock up at angles between 11 and 16 degrees, and thus do not comply with the requirement. When the vehicle is parked such that one side is substantially higher than the other, the retractor on the uphill side locks up at angles between seven and 11 degrees, a noncompliance with the requirement.

**Response to NHTSA Points**

The agency denied the Honda petition based on the following four reasons. Each is followed by Honda's response.

*1. Complaints*

*NHTSA:* The number of complaints received by Honda indicated that the noncompliance is not isolated or inconsequential.

*Honda:* Honda discussed two ways that it learns of customer concerns. The first is customer complaints. In its investigation of these complaints, one complaint was found. Furthermore, when this customer initially contacted Honda, it was about a different, unrelated problem. Only during the follow-up of the primary concern did the customer mention the dealer's satisfactory handling of the rear seat belt problem.

The second is to analyze the complaint rates derived from warranty data. Honda compared the complaint rates of the two noncompliant vehicle models with those of Honda Civic and Acura Legend 4 door sedan models which are fully compliant with FMVSS No. 209. In this comparison, Honda found that there was no significant statistical difference between the claim rates. Warranty claims were received for 0.03 to 0.05 percent of both the noncompliant and compliant vehicles.

*2. Product Improvement Campaign*

*NHTSA:* The number of complaints was sufficient to cause Honda to initiate a Product Improvement Campaign on the Accord sedan and coupe.

*Honda:* Product Improvement Campaigns are intended to maintain customer satisfaction. Because Honda recalled the Accord station wagon to correct this noncompliance with Standard No. 209, it initiated this Product Improvement Campaign "* * * to clarify the situation and prevent unnecessary concern—not because there were numerous complaints."

*3. Discouragement of Seat Belt Use*

*NHTSA:* The noncompliance could discourage seat belt use.

*Honda:* Honda stated that because customer complaints are nearly nonexistent and the warranty rate for rear seat belts installed in the noncompliant vehicles is essentially the same as the rate for other comparable complying models, "* * * combined with the rarity of actual parking situations in which a consumer would experience the steep angles required for lock-up, indicates that actual failures are insignificant." In addition, because Honda provides a lifetime warranty on its seat belts, it believes this would also reduce the possibility that an individual would discontinue seat belt use due to a failure. Finally, Honda has made recent improvements to its seats belts such as reducing belt tension for comfort, making the outer edges of the belt webbing softer, and treating the webbing with anti-static treatment to reduce dirt and dust attraction. It

believes this will also help to increase belt use.

*4. Problems Associated With Installing Child Safety Seats*

*NHTSA:* The noncompliance could present problems to parents attempting to install a child safety seat.

*Honda:* Honda states that because the lock-up "* * * is not common in an uphill or downhill attitude, the noncompliance issue is centered on the lateral attitude—when the vehicle is parked with one side of the vehicle substantially higher than the other." Further, "[e]ven in this case, the retractor on the lower, downhill side will always operate properly." Honda believes that the noncompliance occurring on the uphill side should pose no problem in installing a child safety seat in the rear seat.

It states that when the noncompliant vehicle is parked on a lateral incline, there are two compliant rear seating positions to install the seat: The center and lower outboard position, both of which can be accessed from the lower, downhill side. Because the downhill side is nearest the curb, out of traffic, and therefore safer than the higher, uphill side, it is the most convenient and the most likely to be used by the parent. Honda also believes on a steep incline it would be more difficult for a parent to lean downward into the car to install a child seat. Honda has recommended the rear center position for infant and toddler child seating in its owner's manuals, starting with the 1992 models.

Interested persons are invited to submit written data, views, and arguments on the appeal of Honda, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The appeal and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the appeal is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: May 2, 1994.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: March 28, 1994.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

[FR Doc. 94–7776 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–59–M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

March 25, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**Bureau of Alcohol, Tobacco and Firearms**

*OMB Number:* 1512–0215.

*Form Number:* ATF F 5110.75 and ATF REC 5110/10.

*Type of Review:* Extension.

*Title:* Alcohol Fuel Plants (AFP) Records, Reports and Notices.

*Description:* Data is necessary (1) to determine that persons are qualified to produce alcohol for fuel purposes and to identify such persons, (2) to account for distilled spirits produced and verify its proper disposition and (3) keep registrations current and evaluate permissible variations from prescribed procedures.

*Respondents:* Farms, Businesses or other for-profit, Small businesses or organizations.

*Estimated Number of Respondents:* 1,218.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 1,218 hours.

*Clearance Officer:* Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

*OMB Reviewer:* Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 94–7808 Filed 3–31–94; 8:45 am]

BILLING CODE 4810–31–P

### Public Information Collection Requirements Submitted to OMB for Review

March 25, 1994.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**Financial Management Service**

*OMB Number:* 1510–0033.

*Form Number:* POD Form 1672.

*Type of Review:* Extension.

*Title:* Application of Undertaker for Payment of Funeral Expenses From Funds to the Credit of a Deceased Depositor.

*Description:* This form is used by the undertaker to apply for payment of the postal savings account of a deceased depositor to apply to the funeral expenses. This form is supported by a certificate from a relative (POD 1690) and an itemized funeral bill. Payment is made to the funeral home instead of the heir.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 25.

*Estimated Burden Hours Per Response:* 30 minutes.

*Frequency of Response:* On occasion, Other (as needed).

*Estimated Total Reporting Burden:* 13 hours.

*Clearance Officer:* Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

*OMB Reviewer:* Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 94–7809 Filed 3–31–94; 8:45 am]

BILLING CODE 4810–35–P

## Public Information Collection Requirements Submitted to OMB for Review

March 25, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

### Internal Revenue Service

*OMB Number:* 1545–0066.
*Form Number:* IRS Form 2688.
*Type of Review:* Extension.
*Title:* Application for Additional Extension of Time to File U.S. Individual Income Tax Return.

*Description:* Internal Revenue Code (IRC) 6081 permits the Secretary of the Treasury to grant a reasonable extension of time for filing any return, declaration, statement, or other document. This form is used by individuals to ask for an additional extension of time to file U.S. income tax returns after filing for the automatic extension, but still needing more time.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 1,453,000.

| *Estimated Burden Hours Per Respondent:* | |
|---|---|
| Learning about the law or the form | 7 minutes. |
| Preparing the form | 10 minutes. |
| Copying, assembling, and sending the form to the IRS | 20 minutes. |

*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 900,860 hours.

*OMB Number:* 1545–0235.
*Form Number:* IRS Form 730.
*Type of Review:* Extension.
*Title:* Tax on Wagering.

*Description:* Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

*Respondents:* Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 50,000.

| *Estimated Burden Hours Per Respondent/Recordkeeper:* | |
|---|---|
| Recordkeeping | 3 hrs., 26 mins. |
| Learning about the law or the form | 1 hr., 4 mins. |
| *Preparing the form* | 2 hrs., 6 mins. |
| Copying, assembling and sending the form to the IRS | 16 mins. |

*Frequency of Response:* Monthly.
*Estimated Total Reporting/ Recordkeeping Burden:* 339,000 hours.

*OMB Number:* 1545–0892.
*Form Number:* IRS Form 8300.
*Type of Review:* Revision.
*Title:* Report of Cash Payments Over $10,000 Received in a Trade or Business.

*Description:* Anyone in a trade or business who, in the course of such trade or business, receives more than $10,000 in cash or foreign currency in one or more related transactions must report it to the IRS and provide a statement to the payor. Any transaction which must be reported under Title 31 on Form 4789 is exempted from reporting the same transaction on Form 8300.

*Respondents:* Farms, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations.

*Estimated Number of Respondents/ Recordkeepers:* 45,800.
*Estimated Burden Hours Per Respondent/Recordkeeper:* 27 minutes.
*Frequency of Response:* On occasion.
*Estimated Total Reporting/ Recordkeeping Burden:* 65,512 hours.

*Clearance Officer:* Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, N.W. Washington, DC 20224.

*OMB Reviewer:* Milo Sunderhauf (202) 395–6880. Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**
*Departmental Reports Management Officer.*

[FR Doc. 94–7810 Filed 3–31–94; 8:45 am]
BILLING CODE 4830–01–P

## Customs Service

## Public Meetings on Customs "Mod Act"

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of meetings.

**SUMMARY:** This notice announces the scheduling of four public meetings on the Customs "Mod Act" and informs the public of the agency's intention to hold several more public meetings at other locations at later dates. The scheduled meetings will be held in: (1) San Francisco, California, (2) New Orleans, Louisiana, (3) New York City, New York, and (4) Newark, New Jersey. The purpose of these meetings is to (1) give Customs managers an opportunity to share "strawmen" implementation proposals relating to carrier manifest requirements and entry and clearance procedures, and (2) give participants an opportunity to ask questions, make suggestions, and provide the Customs Service with informal input relative to implementation of Title VI of the North American Free Trade Agreement Implementation Act (Public Law 103–182, 107 Stat. 2057, codified at 19 U.S.C. 3301 note). To control attendance, those planning to attend are requested to notify Customs in advance.

**DATES:** In San Francisco, California, April 26, 1994; in New Orleans, Louisiana, May 6, 1994; in New York City, New York, May 24, 1994, and; in Newark, New Jersey, May 25, 1994. All meetings are scheduled from 8:30 a.m. to 2 p.m.

**ADDRESSES:** In San Francisco, at the South San Francisco Conference Center, 255 S. Airport Boulevard, South San Francisco, California; in New Orleans, at the Marriott Hotel, 555 Canal Street, New Orleans, Louisiana; in New York City, at the Customs Main Conference Room—2d Floor, Building 77, JFK Airport, New York City, New York, and; in Newark, at the Customs Main Conference Room—3d Floor, Hemisphere Center, Newark, New Jersey.

**FOR FURTHER INFORMATION CONTACT:** Debra Rutter, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Phone: (202) 927–0510; FAX: (202) 927–1356.

**SUPPLEMENTARY INFORMATION:**

### Background

On December 8, 1993, the President signed the "North American Free Trade Agreement Implementation Act." The Customs modernization portion of this Act (Title VI of Public Law 103–182), popularly known as the Customs Modernization Act or "Mod Act," became effective when it was signed. In order to share "strawmen" implementation proposals specific to carrier manifest requirements and entry and clearance procedures and invite informal dialogue relative to implementation plans and issues, Customs will hold open meetings in: (1) San Francisco on April 26, 1994, at the South San Francisco Conference Center,

255 S. Airport Boulevard, South San Francisco, California; (2) New Orleans on May 6, 1994, at the Marriott Hotel, 555 Canal Street, New Orleans, Louisiana; (3) New York City on May 24, 1994, at the Customs Main Conference Room, Building 77, JFK Airport, New York City, New York, and; (4) Newark on May 25, 1994, at the Customs Main Conference Room, Hemisphere Center, Newark, New Jersey. All meetings are scheduled from 8:30 a.m. to 2 p.m.

Between 8:30 a.m. and 9:15 a.m., a general briefing covering the Office of Inspection and Control's operational, automation and enforcement issues will be conducted. Following the general briefing, staff members from the Office of Inspection and Control will conduct a series of presentations concentrating on vessel, air, truck and rail transportation proposals for implementing specific Mod Act provisions. Among the topics to be discussed at these sessions will be: Carrier manifest requirements, electronic transmission of data, carrier entry and clearance procedures, and carrier liability issues. Participants will be given ample opportunity to ask questions and provide suggestions during this session.

Persons planning to attend are requested to pre-register by FAX with the local contact listed below. Individuals not having access to facsimile equipment may pre-register by calling the following local contacts:

For the San Francisco Meeting: Mr. Thomas O'Brien, Telephone: (415) 705–4340, Fax: (415) 705–4334.

For the New Orleans Meeting: Ms. Joell Johnson, Telephone: (504) 589–6323, Fax: (504) 589–7305.

For the New York City and Newark Meetings: Ms. Susan Mitchell, Telephone: (212) 466–4500, Fax: (212) 466–4507.

Attendees are encouraged to arrive approximately 15 minutes in advance of the meeting.

Customs intends to hold similar public meetings at the following locations: Chicago, Illinois, and Washington, D.C. Other locations are still being considered. The dates, times, and locations of these public meetings will be published in the **Federal Register** at a later date.

Dated: March 25, 1994.

**Harvey B. Fox,**

*Director, Office of Regulations and Rulings.*

[FR Doc. 94–7740 Filed 3–31–94; 8:45 am]

BILLING CODE 4820–02–P

# Sunshine Act Meetings

Federal Register
Vol. 59, No. 63
Friday, April 1, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, March 29, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured depository institutions.

Matters relating to the Corporation's corporate and supervisory activities.

Personnel matters.

In calling the meeting, the Board determined, on motion of Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: March 29, 1994.

Federal Deposit Insurance Corporation.

**Patti C. Fox,**

*Acting Deputy Executive Secretary.*

[FR Doc. 94–7940 Filed 3–30–94; 9:52 am]

BILLING CODE 6714–01–M

## SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 4, 1994.

An open meeting will be held on Wednesday, April 6, 1994 at 10:00 a.m. A closing meeting will be held on Thursday, April 7, 1994, at 9:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)A and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, April 6, 1994, at 10:00 a.m., will be:

The Commission will consider whether to issue two orders approving the proposed rule changes by the Municipal Securities Rulemaking Board ("MSRB") that: (1) adopt a new rule (G–37) regulating the political contributions of municipal securities dealers; and (2) amend rule G–19 relating to the suitability of recommendations by municipal securities dealers. For further information, please contact Scott Kursman at (202) 942–0168.

The subject matter of the closed meeting scheduled for Thursday, April 7, 1994, at 9 a.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Felicia Kung (202) 272–2300.

Dated: March 30, 1994.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 94–7967 Filed 3–30–94; 11:42 am]

BILLING CODE 8010–01–M

# Corrections

Federal Register
Vol. 59, No. 63
Friday, April 1, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### 36 CFR Part 254

RIN 0596-AA42

### Land Exchanges

*Correction*

In rule document 94-4997 beginning on page 10854 in the issue of Tuesday, March 8, 1994, make the following corrections:

**§ 254.5 [Corrected]**

1. On page 10870, in the second column, in§ 254.5(a), in the second line, remove the word "is".

**§ 254.7 [Corrected]**

2. On page 10870, in the third column, in § 254.7(a)(2), in the ninth line from the bottom, "parties" should read "parcels".

**§ 254.14 [Corrected]**

3. On page 10873, in the second column, in § 254.14(b), in the fifth line, the period at the end should be a colon; and in (b)(1), the colon at the end should be a semi-colon.

**§ 254.17 [Corrected]**

4. On page 10874, in the third column, in the fourth line, "§ 254.4" should read "§ 254.14".

BILLING CODE 1505-01-D

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 219 and 226

### Defense Federal Acquisition Regulation Supplement; Preference for Local and Small Business

*Correction*

In rule document 94-5818 beginning on page 12191, in the issue of Wednesday, March 16, 1994, make the following corrections:

On page 12191, in the second column, under ACTION:, in the first line, "respect" should read "request".

**226.7100 [Corrected]**

On page 12192, in the first column, in section 226.7100, in the first line, "1912" should read "2912".

**226.7103 [Corrected]**

On page 12192, in the second column, in section 226.7103 (c)(2), in the third line, after the word "small" insert "business".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Fiscal Year (FY) 1994 Indian Child Welfare Act (ICWA) Grant Program, Availability of Title II ICWA Funds for Federally Recognized Indian Tribes

*Correction*

In notice document 94-7059 beginning on page 14310, in the issue of Friday, March 25, 1994, make the following correction:

On page 14311, in the third column, in the table entitled "FY 1994 TITLE II ICWA FUNDING DISTRIBUTION PLAN FOR TRIBES---Continued", under the heading "Service area population", in the fourth line, "90,001-14,000" should read "90,001-140,000".

BILLING CODE 1505-01-D

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 270

[Release No. IC-19658, File No. S7-26-92]

RIN 3235-AF01

### Investment Company General Partners Not Deemed Interested Persons; Investment Company Limited Partners Not Deemed Affiliated Persons

*Correction*

In rule document 93-21109 beginning on page 45834 in the issue of Tuesday, August 31, 1993, make the following correction:

**§ 270.2a19-2 [Corrected]**

1. On page 45838, in the second column, in § 270.2a19-2(a)(4), in the eighth line, "of" should read "or".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

[TD 8520]

RIN 1545-AR15

### Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit

*Correction*

In rule document 94-3515 beginning on page 10067 in the issue of Thursday, March 3, 1994, make the following corrections:

**§ 1.42-12 [Corrected]**

On page 10074, in the third column, in § 1.42-12(a), in the sixth line, insert a comma after "1994"; and in the second line from the bottom, "1.42-9" should read "1.42-8".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

[T.D. 8516]

RIN 1545-AS29

### Revisions of the Section 338 Consistency Rules With Respect to Target Affiliates That Are Controlled Foreign Corporations

*Correction*

In rule document 94-666 beginning on page 2956 in the issue of Thursday, January 20, 1994, make the following correction:

**§ 1.338-4T [Corrected]**

On page 2957, in the second column, in § 1.338-4T(h)(4), in the first line, "(1) *General*" should read "(i) *General*".

BILLING CODE 1505-01-D

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[TD 8513]**
**RIN 1545-AJ31**

## Bad Debt Reserves of Banks

*Correction*

In rule document 93-31577 beginning on page 68753 in the issue of Wednesday, December 29, 1993, make the following corrections:

**§ 1.585-1 [Corrected]**

1. On page 68757, in the second column, in § 1.585-1(b)(2), in the second line from the bottom, the first word should read "for".

**§ 1.585-5 [Corrected]**

2. On page 68760, in the second column, in § 1.585-5(c)(4)(ii), "tax/book ratio" should read "*tax/book ratio*" in the following places:

a. Beginning in the sixth line;
b. In the 11th line; and
c. In the 14th line.

3. On the same page, in the third column, in § 1.585-5(d)(2), in the third line from the bottom, "excluded member" should read "*excluded member*".

**§ 1.585-6 [Corrected]**

4. On page 68762, in the 3d column, in § 1.585-6(d)(5), *Example 3*, in the 18th and 29th lines, insert a comma after "percent"; and in the last line, insert a period after "December 15, 1988".

**§ 1.585-7 [Corrected]**

5. On page 68763, in the first column, in § 1.585-7(d)(1), in the second line, insert a period after "*general*".

**§ 1.585-8 [Corrected]**

6. On page 68764, in the second column, in § 1.585-8(b)(2), beginning in the first line, "Certain tax returns filed before December 29, 1993." should read "*Certain tax returns filed before December 29, 1993.*"

BILLING CODE 1505-01-D

federal register

Friday
April 1, 1994

Part II

# Environmental Protection Agency

40 CFR Parts 63 and 70
Hazardous Air Pollutants: Proposed Regulations Governing Constructed, Reconstructed or Modified Major Sources; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 63 and 70**

**[FRL–4849–5]**

**RIN 2060–AD06**

## Hazardous Air Pollutants: Proposed Regulations Governing Constructed, Reconstructed or Modified Major Sources

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The proposed rule would implement the provisions in section 112(g) of the Clean Air Act (Act). The section 112(g) requirements are new provisions of the 1990 amendments to the Act. Section 112(g) applies to the owner or operator of a constructed, reconstructed, or modified major source of hazardous air pollutants (HAP). After the effective date of a title V permit program in a State, all owners or operators of major sources that are constructed, reconstructed, or modified in that State would be required to install maximum achievable control technology (MACT). The proposed rule establishes requirements and procedures for the owners or operators to follow in order to comply with section 112(g). The proposed rule also contains guidance permitting authorities in implementing section 112(g). When no applicable Federal emission limitation has been promulgated, the Act requires the permitting authority (generally a State or local agency responsible for the program) to determine a MACT emission limitation on a case-by-case basis. Procedures are proposed for making these determinations. The proposed rule includes proposed *de minimis* emission rates for all of the listed HAP. These *de minimis* values are critical in defining the scope of the section 112(g) requirements. Pursuant to section 112(g), an owner or operator may provide emission offsets to avoid requirements for modifications. The proposed rule provides procedures for providing and reviewing offset demonstrations, including procedures for evaluating whether emission offsets are "more hazardous" than emission increases being offset. Finally, the proposal includes a number of clarifying amendments to previously proposed or promulgated regulations. These proposed amendments would clarify the relationship between those requirements and section 112(g) of the Act.

**DATES:** *Comments.* Comments must be received on or before June 30, 1994. The EPA does not intend to extend this date.

*Public Hearing.* If anyone contacts the EPA requesting a public hearing by May 2, 1994, a public hearing may be held June 1, 1994 beginning at 10 a.m.

*Request to Speak at Hearing.* Persons wishing to present oral testimony must contact the EPA by May 2, 1994.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate if possible) to: Air Docket (LE–131), Attention Docket Number A–91–64 (see Docket section below), room M1500, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below. The docket is located at the above address in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12 p.m. and 1 p.m. to 3 p.m., Monday through Friday. The proposed regulatory text and other materials related to this rule making are available for review in the docket. A reasonable fee may be charged for copying docket materials.

*Public Hearing.* If anyone contacts the EPA requesting a public hearing, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Theresa Adkins, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5502.

*Docket.* Docket No. A–91–64, containing supporting information used in developing the proposed rule is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the EPA's Air Docket, room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Timothy Smith (regulatory issues), telephone (919) 541–4718, Dr. Jane Caldwell-Kenkel (hazard ranking issues), telephone (919) 541–0328, or Ms. Lynn Hutchinson (MACT determination procedures), telephone (919) 541–5624, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:** The information presented in this preamble is organized as follows:



The proposed regulatory text is not included in the **Federal Register** notice, but is available in Docket No. A–91–64 or by request from the EPA contact persons designated earlier in this note. The proposed regulatory language is also available on the technology Transfer Network (TTN), of EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call.

Dial (919) 541–5742 for up to a 14,400 bps modem. If more information on the TTN is needed call the HELP line at (919) 541–5384.

The purpose of this document is to provide the public with an opportunity to comment on the proposed rule implementing the requirements of section 112(g) of the Act. This preamble is organized to serve readers needing: (1) an overview of the proposed requirements of the section 112(g) program, and (2) a detailed discussion of the alternatives considered in the developing the proposed requirements.

Section I of the preamble provides an overview of the requirements of the regulations being proposed today.

Section II provides background on section 112(g) in the context of the 1990 amendments to the Act.

Section III provides a detailed discussion of the requirements of the proposed rule and the rationale for these requirements including other regulatory options that were considered.

One of the most important and challenging provisions of section 112(g) is the requirement that the EPA provide a ranking of HAP for purposes of offset demonstrations. Section IV of the preamble provides a detailed discussion of EPA's approach to this pollutant ranking. Section V of the preamble discusses the relationship between the requirements of the proposed rule and other important Act implementation activities. Section VI demonstrates that the proposed rulemaking is consistent with a number of Federal administrative requirements.

This preamble makes use of the term "State," usually meaning the State air pollution control agency which would be the permitting authority implementing title V or part 70 and the section 112(g) program. The reader should assume that use of "State" also applies, as defined in section 302(d) of the Act, to the District of Columbia and territories of the United States, and may also include reference to a local air pollution control agency. In some cases, the term "permitting authority" is used and can refer to both State agencies and to local agencies (when the local agency directly makes the determinations or assists the State in making the determinations). The term "permitting authority" may also apply to the EPA, where the EPA is responsible for the program.

## I. Summary of Proposed Rule

The proposed rule would implement the requirements of section 112(g) of the Act by adding new regulatory sections to 40 CFR part 63, subpart B. The new sections would appear as §§ 63.40 through 63.49 of subpart B. The requirements of section 112(g) are displayed in Figure 1. The program applies to major sources of hazardous air pollutants for which changes are proposed that would lead to increases in emissions. The program imposes control technology requirements on "constructed, reconstructed, or modified" major sources of hazardous air pollutants.

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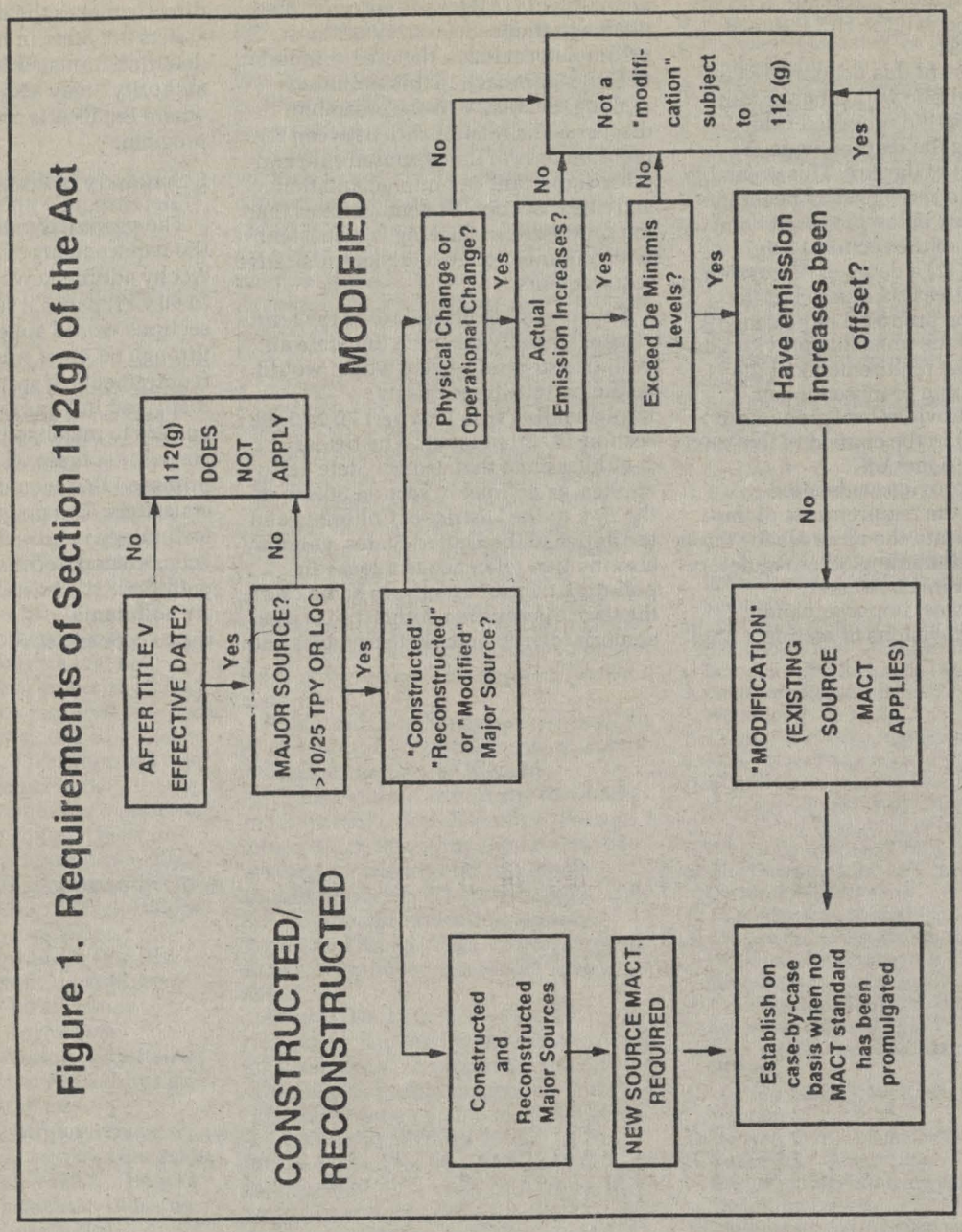


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*A. Requirements for Constructed and Reconstructed Major Sources*

Figure 2 displays the requirements of the proposed rule for constructed or reconstructed major sources.

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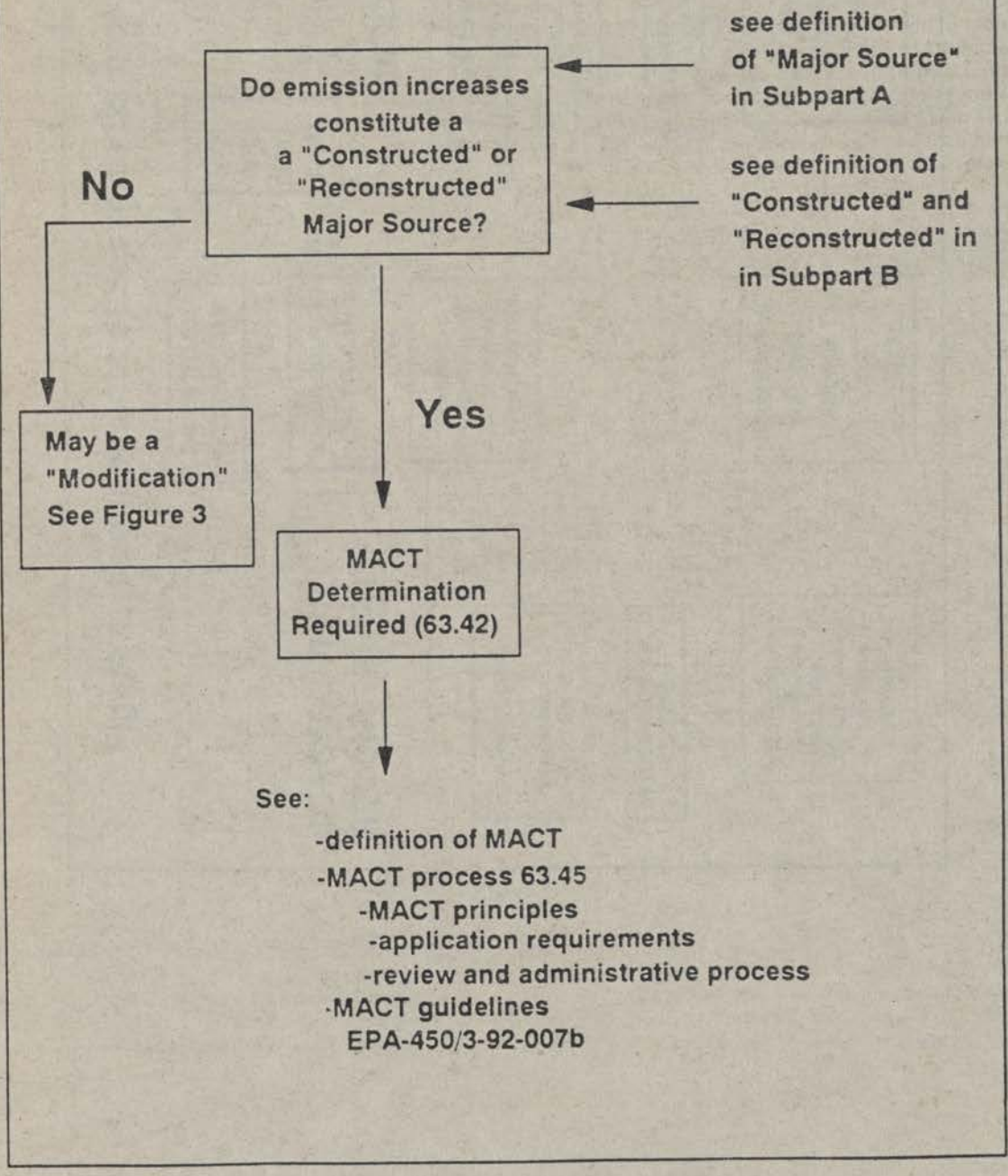
## Figure 2. Structure of Proposed Rule (40 CFR Part 63, Subpart B) for Constructed and Reconstructed Major Sources

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The definition of "major source" can be found in a subpart A to 40 CFR part 63. (This subpart is expected to be promulgated at roughly the same time as today's proposal implementing section 112(g). In this proposed rule, two alternative definitions of "construct" and "reconstruct" are given. The EPA is taking public comment on the alternatives and intends to select one in the final rule. (Under both alternatives, construction of major-emitting equipment on a new site is considered "construction;" the alternatives differ in the treatment of new equipment adding "major" amounts of emissions to an existing site.) If equipment additions or overhauls meet the definition of "construct a major source" or "reconstruct a major source," then, pursuant to § 63.42 of the proposed rule, the owner or operator must demonstrate that emissions will be controlled to a level consistent with the "new source MACT" definition in section 112(d)(3) of the Act. When no applicable MACT standard (i.e., promulgated under section 112(d) of the Act) has been promulgated for the category, a case-by-case determination must be made. The procedures for MACT determinations are set forth in § 63.45 of the proposed rule and are further described in a draft guidelines document that is being released in tandem with the proposed rule. *Guidelines for MACT Determinations under Section 112(g)*, EPA–450/3–92–007b). The EPA is also requesting comment on these guidelines, which can be obtained from the EPA library, telephone (919) 541–2777.

*B. Requirements for Modified Major Sources*

The statutory requirements in section 112(g) of the Act for "modifications" to a major source are more complex. Figure 3 displays the requirements in the proposed rule for modifications. If a plant meets the definition of "major source" in subpart A, then any "physical change or change in the method of operation" increasing "actual emissions" above a "*de minimis* level" at the plant is a "modification." This proposed rule contains definitions and procedures for addressing each of these terms. Section 63.44 provides a table of *de minimis* values for each of the HAP listed in section 112(b) of the Act.

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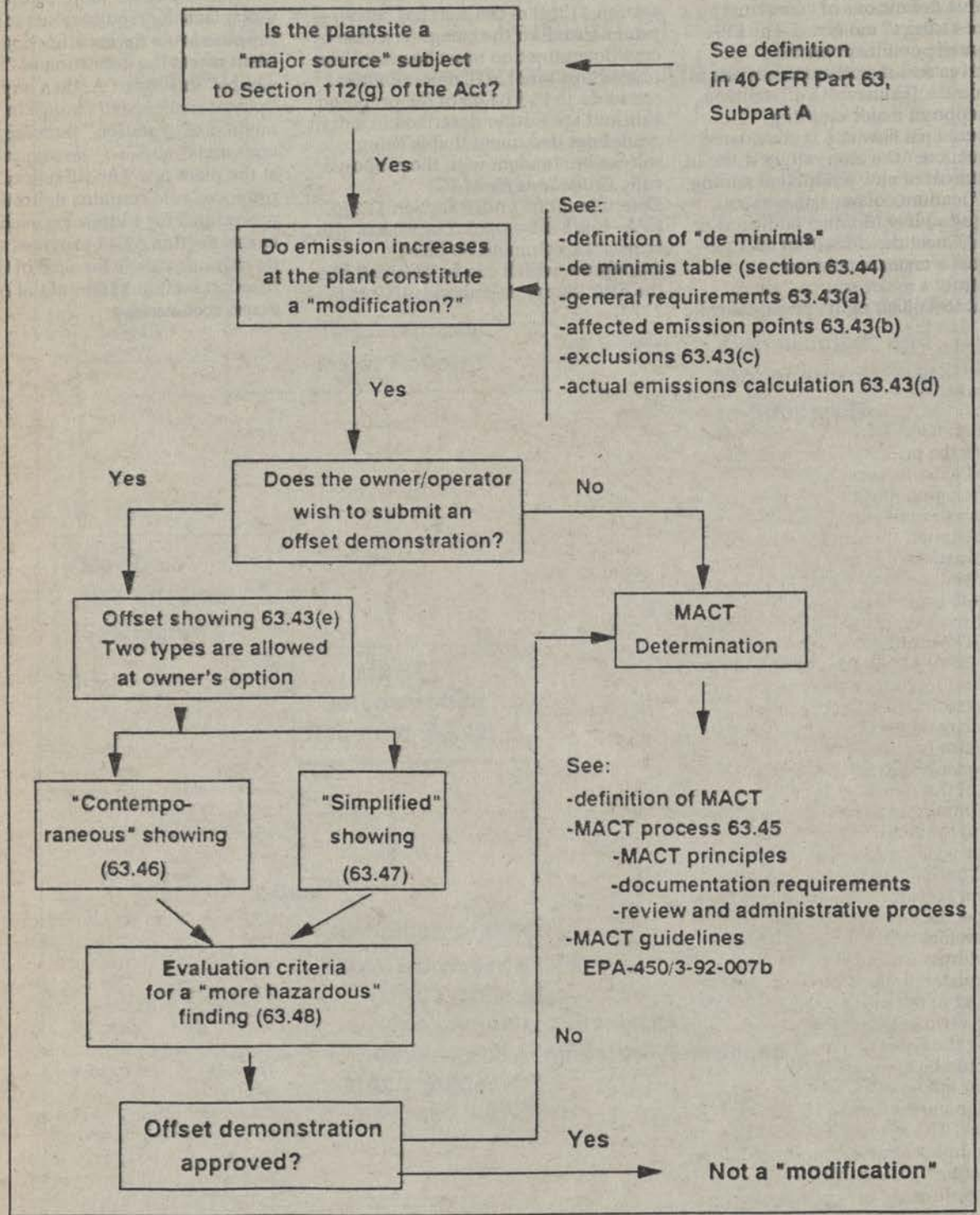
## Figure 3. Structure of Subpart B (of 40 CFR Part 63) Proposed Requirements for Modifications

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Past Federal air quality regulations have excluded a number of activities from the definition of "physical change or change in the method of operation." In paragraph 63.43(c) of the proposed rule, the EPA proposes to provide a similar list of exclusions for purposes of section 112(g) of the Act. There are a number of possible approaches to the determination of an "actual emission increase." In paragraph 64.33(d), the EPA proposes a calculation procedure for "actual emissions."

The Act requires the owner or operator of a major source "modification" to demonstrate that an "existing source MACT" level will be met. The language in section 112(g) is ambiguous regarding the extent of coverage at a plant site when a modification has occurred. Paragraph 63.43(b) in the proposed rule is intended to clarify the ambiguity by describing the equipment that would require MACT when a "modification" occurs.

Section 63.45 of the proposed rule outlines the principles and procedures for the "existing source MACT" demonstration. If no applicable standard has been promulgated by the Administrator, then a case-by-case determination of MACT must be made. More detail on the procedures described in § 63.45 is given in a draft MACT Guidelines Document, Guidelines for MACT Determinations under section 112(g) (EPA–450/3–92–007b). This document includes a process for demonstrating that the control technology recommended by the owner or operator is consistent with minimum requirements described in section 112(d) of the Act.

One important provision of section 112(g) of the Act is that an owner or operator wishing to avoid the MACT demonstration requirement may provide emission "offsets." The Act provides little specific guidance on these offsets, and therefore the proposed regulation must address a number of complex issues related to the offsets. In §§ 63.46 and 63.47 of the proposed rule, the EPA provides two optional approaches for defining the types of emission decreases that would be credited as offsets. The owner or operator wishing to provide an offset demonstration could use either approach. The approach in § 63.46 is the more complex approach and resembles the "netting" process used for the criteria pollutant "prevention of significant deterioration" program (40 CFR 52.21) and nonattainment new source review provisions (40 CFR 51.165 and 166). The approach in § 63.47 is a more simplified approach which imposes greater restrictions on the types of decreases that would be creditable.

Section 112(g)(1) allows for offsetting between pollutants. This is a major departure from other "offset" or "netting" programs which allow for decreases to be credited only towards increases of the same pollutant or pollutants within broad classes. Section 112(g)(1)(B) requires that the EPA provide guidance for determining that offsetting decreases are "more hazardous" than the increase being offset. In § 63.48 of the proposed rule, the EPA requests comment on a possible method for making a "more hazardous" demonstration.

*C. Software Illustrating the Proposed Requirements*

The EPA recognizes the complexity of this proposed rule and the need for assistance in clarifying the provisions for potentially affected plant operators and permitting authorities. In order to help communicate the requirements, the EPA is developing software that should provide this assistance. This software is designed to provide users with the opportunity to explore for example cases how to determine whether "construction," "reconstruction," or "modifications" requirements apply and whether an example pollutant is considered "more hazardous" than another. The EPA hopes that this software can facilitate an improved review of the proposed rule.

## II. Background

*A. Act Amendments. Section 112*

The Act amendments of 1990 [Public Law 101–549] contain major changes to section 112 of the Act pertaining to the control of HAP emissions. Section 112(b) includes a HAP list that is composed of 189 chemicals, including 172 specific chemicals and 17 compound classes. Section 112(c) requires publication of a list of source categories of major sources emitting these HAP, and of area sources that warrant regulation. Section 112(d) requires promulgation of emission standards for each listed source category according to a schedule set forth in section 112(e).

*B. Act Amendments. Provisions for Constructed, Reconstructed, and Modified Major Sources of HAP*

The amendments to section 112 include a new section 112(g). This section is entitled "Modifications," but it contains control technology requirements for constructed and reconstructed major sources as well as major source modifications.

1. Statutory Requirements for Constructed and Reconstructed Major Sources. Section 112(g)(2)(B) contains requirements for constructed and reconstructed major sources, as follows:

> After the effective date of a permit program under title V in any State, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for new sources will be met. Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.

This section mandates a more stringent minimum level of control for "constructed" and "reconstructed" major sources than for "modified" sources. In addition, this section mandates the setting of a case-by-case emission limitation based on a technology determination for major sources that are constructed or reconstructed after the effective date of a title V permit program, but before the establishment of Federal emission limitations.

2. Statutory Requirements for Modifications. The requirements for major source modifications differ from those for constructed and reconstructed major sources. Section 112(g)(2)(A) states that:

> After the effective date of a permit program under title V in any State, no person may modify a major source of hazardous air pollutants in such State, unless the Administrator (or the State) determines that *the maximum achievable control technology emission limitation under this section for existing sources* will be met. *Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.* (emphasis added)

The underlined phrases signal important differences between section 112(g) and the way modifications have been treated previously under sections 111 and 112 of the Act. Previously, a "modification" has been treated as a change to an existing air pollution source which caused it to be subject to an emission standard or level of control that would be required for new equipment. Under section 112(g), "modified" equipment need only meet an existing source level of control which was envisioned to be potentially less demanding. Congress was apparently concerned that treating modifications as "new sources" would be overly stringent. Senator Lautenberg summarized the Congressional discussion as follows:

> * * * one of the differences between the House and Senate air toxics provisions was

their treatment of modifications to existing sources. The House bill included modified existing sources in its definition of new source, while the Senate bill had limited the new source definition to new and reconstructed sources.

As the Author of the Senate provision, I was concerned that the House definition would have unduly hampered routine operations of many manufacturing facilities that may make frequent operational or physical changes which may result in increased and different mixes of air pollutants. For example, many pharmaceutical and electronic manufacturing facilities in my State make frequent changes in their operations which result in variation in their air emissions. Simply substituting one hazardous air pollutant for another more hazardous air pollutant in a process could have caused the source to be considered a new source. Or, simply initiating the manufacturing of new or different products causing certain alterations and increases in the emissions, could have triggered the new source definition.

The implications of the new source definition in the House bill would have been substantial for an existing major source. This could have caused time-consuming delays as well as imposing the unreasonable burden of retrofitting the modification to bring it into compliance with new source MACT.[1]

136 Cong. Rec. S 17124–5 (October 26, 1990).

A second important difference between section 112(g) and the pre-amendment treatment of modifications is that case-by-case control technology judgments must be made where no applicable emission limitations have been established by the Administrator. Modifications that occur after the "effective date" of the operating permits program (see discussion below in section II.A of this preamble), but before the promulgation by the EPA of a section 112(d) standard for a given source category, must comply with emission limitations that reflect a case-by-case judgment on the part of the reviewing authority.

The Act establishes a number of complex considerations in determining what constitutes a "modification." The definition of a major source "modification" is given in section 112(a)(5) and additional considerations are given in section 112(g)(1)(A). Section 112(a)(5) states that:

> The term 'modification' means any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by *more than a de minimis amount* or which results in the emissions of any hazardous air pollutant not previously emitted by *more than a de minimis amount.* (emphasis added)

This definition of modification is very similar to the definition contained in section 111 of the Act. One important difference in this definition is that it allows for an exception for modifications that result in an increase which is less than a *de minimis* amount, while section 111 regulates "any emission increase" caused by the physical change or change in the method of operation.

Section 112(g)(1)(A) provides for consideration of emission offsets in the definition of "modification." Section 112(g)(1)(A) states that:

> A physical change in, or change in the method of operation of, a major source which results in a greater than *de minimis* increase in actual emissions of a hazardous air pollutant shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous.

Congress recognized the difficulty in interpreting the phrase "which is deemed more hazardous." In section 112(g)(1)(B), the EPA is required to provide a hazard ranking of the chemicals, as follows:

> The Administrator shall, after notice and opportunity for comment and not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, publish guidance with respect to implementation of this subsection * * * [i.e. section 112(g)] * * * Such guidance shall include an identification, to the extent practicable, of the relative hazard to human health resulting from emissions to the ambient air of each of the pollutants listed under * * * [section 112(b)] * * * sufficient to facilitate the offset showing authorized by * * * [section 112(g)(1)(A)] * * * Such guidance shall not authorize offsets between pollutants where the increased pollutant (or more than one pollutant in a stream of pollutants) causes adverse effects to human health for which no safety threshold for exposure can be determined unless there are corresponding decreases in such types of pollutants.

Finally, Congress directed the EPA to prevent unnecessary delays in the review of modifications, particularly where no case-by-case control decision is needed. Section 112(g)(3) says that:

> The Administrator (or the State) shall establish reasonable procedures for assuring that the requirements applying to modifications under this section are reflected in the permit.

Again citing Senator Lautenberg,

> As long as the permit provides that the existing source MACT standard will be complied with in the event of a modification, the objectives of the modification provision in the law will have been satisfied. If there is no existing source MACT standard, then the Congress expects an expeditious determination of what emission limitations the modification must meet.

3. Requirement for Guidance. Need for Rulemaking. Section 112(g)(1)(B) of the Act directs the EPA to "publish guidance with respect to the implementation of *this subsection.*" The EPA believes that "subsection" refers to all of the requirements of "subsection 112(g)" of the Act, and that guidance is required to provide consistency in implementing all of the section 112(g) requirements.

The EPA requests comment on an alternative reading that would require guidance only for the ranking of pollutants. The EPA believes that although section 112(g)(1)(B) states that the pollutant ranking is to be included in the guidance, the EPA does not believe that this language means that the guidance should be limited to the pollutant ranking.

In any case, there is no requirement in section 112(g) that the EPA publish a rule to implement the requirements. At a minimum, the EPA must issue "guidance" after "notice and opportunity for comment." The EPA believes that there are sound policy reasons for promulgating a rule rather than issuing informal guidance. First, the requirement for "opportunity for comment" on the guidance suggests that any guidance that is issued would require a review process similar to a rulemaking. Second, the EPA believes that a rulemaking would serve to provide a consistent basis for interpreting a number of ambiguous phrases in the statute. In the absence of such a rule, a consistent interpretation of the Federal requirements would not exist and the potential for litigation and delays could increase.

### *C. Process To Develop the Proposed Rule*

The EPA has undertaken a substantial effort to obtain feedback from interested parties in the development of the proposed rule.

During July 1991, a 2-day meeting was held with an ad hoc group consisting of representatives of environmental organizations, industrial trade groups, and State and local air quality agencies. This meeting served to introduce the principal issues involved with section

[1] It has been held that although "such statements by individual legislators should not be given controlling effect, * * * when they are consistent with the statutory language and other legislative history, they provide evidence of Congress' intent." *Brock v. Pierce County,* 476 U.S. 253, 263 (1986). While Senator Lautenberg's statement alone would not be sufficient to impose requirements not grounded in the statute itself or limit the Agency's discretion, it is a helpful explanation of Congressional intent.

112(g) implementation. Written comments were received from a number of participants. These comments are included in the Docket for the proposed rule.

During October 1991, the EPA consulted an independent panel of scientific experts for input into the hazard ranking process. This panel of the EPA's Science Advisory Board (SAB) was apprised of the EPA's theoretical outline for hazard ranking in a public meeting held on October 28 and 29, 1991. The consultation meeting provided members of the SAB an opportunity to provide verbal feedback on several approaches.

On November 19, 1991, ideas for developing section 112(g) guidance were discussed at the meeting of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC). At the NAPCTAC, staff of the EPA presented a number of preliminary positions on a number of section 112(g) issues. A copy of the EPA presentation and a summary of the NAPCTAC meeting are also included in the Docket.

Finally, the EPA has consulted with a subcommittee of the Clean Air Act Advisory Committee for input on approaches to implementing section 112(g). Meetings were held on May 26 and June 29, 1992 to present a summary of section 112(g) issues and to provide the subcommittee with the EPA's staff thinking with respect to those issues. A third meeting was held on September 24, 1992 to obtain feedback on a draft of the proposed rule. A copy of the draft rule submitted to the subcommittee, and several comment letters on that draft, are included in the Docket. Additional meetings were held with the subcommittee on January 15, 1993. In February 1993, a revised draft of the rule and a first draft of this preamble were circulated to subcommittee members. On March 19, a meeting was held to discuss procedures for case-by-case MACT determinations. A copy of the February draft of the rule and preamble, and associated feedback from subcommittee members, is included in the Docket.

## III. Summary and Rationale for Section 63.40 Through 63.47, and Section 63.49, of the Proposed Rule

This section of the preamble is a detailed discussion of the provisions of the proposed rule. This discussion outlines the rationale for the decisions that were made, and describes other options that were considered. The overall structure of the proposed requirements for constructed and reconstructed sources is displayed in Figure 2. The overall structure of the proposed requirements for modifications is displayed in Figure 3.

### *A. Section 63.40—Applicability*

Section 63.40 describes the timing of the requirements of the proposed rule and the situations it is generally intended to address.

1. 63.40(a)—Subpart B applicability. Paragraph 63.40(a) of the proposed rule indicates that the intent of the rule is to implement section 112(g) of the Act.

2. 63.40(b)—Overall requirements. Paragraph 63.40(b) of the proposed rule indicates the overall applicability of section 112(g) to the owner or operator of a major source of HAP who constructs, reconstructs or modifies a major source after the "effective date of a title V program" in each State.

(a) Effective date. The meaning of "effective date of a title V permit program" is indicated in the final regulations for implementation of title V of the Act, which are contained in 40 CFR part 70, and which were published on July 21, 1992 (57 FR 32250). Under these regulations, States are required to submit a permit program for review by the EPA on or before November 1993. The EPA is required to approve or disapprove the permit program within 1 year after receiving the submittal. The EPA's program approval date is termed the "effective date."

Congressional intent for using this effective date as the trigger date for section 112(g) requirements is clear. According to Senator Lautenberg (Congressional record, S. 17125, October 26, 1990):

> Requirements for modifications do not apply to a source until there is an approved permit program in that State. This should ensure that there is a permit program in place that is designed to expeditiously deal with modifications.

The effective date of title V permit programs is defined in section 502(h) of the Act, which says "The effective date of a permit program, or partial or interim program, approved under * * * [title V] * * * shall be the effective date of approval by the Administrator. The effective date of a permit program, promulgated by the Administrator shall be the date of promulgation." This definition is incorporated into the operating permit regulations as 40 CFR 70.4(g).

This language refers to two types of title V programs: one type where the EPA "approves" the title V program under 40 CFR part 70 and another type where the EPA "promulgates" a program under 40 CFR part 71. Programs "approved" by the EPA under Part 70 will be developed by the State or local area and submitted to the EPA for approval. The language in section 502(h) of the Act makes these programs immediately effective upon EPA approval. Programs "promulgated" by the EPA under part 71 are anticipated to be rare, and they occur only where a State failed to submit a program or submitted a program that EPA could not approve. The EPA is required by section 502(d)(3) of the Act to promulgate and administer a title V program if, by November 1995, the EPA has not approved the State program. The language in section 112(g), because it refers to the effective date of a title V program in any State (and not by any State), means that the program will apply to both the EPA "approved" and "promulgated" programs.

The title V regulations provide for approval of "interim" and "partial" programs in certain limited circumstances. The EPA believes that, because partial programs must ensure compliance with "all requirements established under section 112 applicable to 'major sources' and 'new sources'," and interim programs must "substantially meet the requirements of [title V]," an interim or partial program would trigger the requirements of section 112(g).

A significant issue in the beginning of a section 112(g) program is to define the activities that would "grandfather" a project that is already underway. As described in the proposed rule, "construction, reconstruction, or modification" are triggered from the "onsite fabrication, erection, or installation" of a project. If such activities occur after the effective date, then the proposed rule would be applicable. The EPA requests comment on other alternatives such as: (1) Grandfathering projects for which a complete application has been submitted to the permitting authority, (2) grandfathering projects which have submitted an application, or (3) grandfathering projects which have not yet received a permit.

(b) Major Source. Section 112(g) applies only to major sources as defined in section 112(a)(1) of the Act. This definition, already included in 40 CFR part 63, subpart A, (the general provisions of part 63), is as follows:

> The term 'major source' means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants * * *

The definition also allows the EPA to establish a lesser quantity than 10 or 25 tons to define "major source" with respect to particular HAP where warranted on the basis of potency, persistence, and other factors. To date, no such lesser quantities have been established.

As a result of this definition, the section 112(g) requirements do not apply if the total emissions from an entire "contiguous area under common control" (in general, the entire plant site) are less than the listed amounts. Once plant-wide emissions exceed this total, then certain activities at the plant site are subject to the section 112(g) requirements that are outlined in the proposed rule.

It is necessary to note that neither the proposed Subpart A requirements nor this proposed rule contain consideration of Standard Industrial Classification Codes (SIC codes) in the definition of "major source." The EPA considered using the 2-digit SIC code for this proposed rule, in a manner similar to that for the proposed 40 CFR part 70 operating permits rule. The EPA believes, however, that this would be inconsistent with the definition of "major source" in section 112(a) of the Act, which does not restrict a "contiguous boundary" to equipment within a 2-digit SIC code. For purposes of implementing section 112(g), such a restriction could, in some cases, restrict the portion of the plant from which emission offsets could be obtained. In other cases, a portion of the plant within a given 2-digit SIC code may not be subject to regulation, because that portion would not emit enough to be considered a "major source" in and of itself. The EPA recognizes that the treatment of 2-digit SIC codes under section 112 of the Act is not consistent with the 40 CFR part 70 operating permits regulation. The EPA requests comment on whether the operating permits rule should be amended to eliminate this inconsistency.

An important element of the major source definition is the term "potential to emit." "Potential to emit" is based on the source's capability to emit hazardous air pollutants with consideration to Federally enforceable limitations. Such limitations include restrictions on capacity, restrictions on the types of materials used, emission limitations, and other types of restrictions. A definition of "potential to emit" is contained in the proposed 40 CFR part 63 subpart A General Provisions.

3. 63.40(c)—Exclusion for Steam Generating Units. Paragraph 63.40(c) of the proposed rule clarifies that electric utility steam generating units are not yet subject to the requirements of section 112(g).

Section 112(n)(1) requires the EPA to perform a study of the hazards to public health associated with HAP emissions from electric utility steam generating units. This paragraph states that:

> The Administrator shall regulate electric utility steam generating units *under this section*, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this paragraph. (emphasis added)

The EPA reads the phrase "under this section" as a broad exemption from regulation under section 112, including section 112(g), pending the results of the utility health hazards study. The EPA requests public comment on this reading.

4. 63.40(d)—Relationship to State and Local Requirements. Most State and local regulatory agencies maintain regulatory programs that involve toxic air pollutant reviews for constructed and modified sources. Paragraph 63.40(d) clarifies that the requirements of section 112(g) do not supersede any requirements of these programs that are more stringent than the proposed rule.

5. 63.40(e)—Relationship to Other Standards. The proposed rule contains an exemption for sources emitting less than that which is regulated by promulgated standards in other subparts of 40 CFR part 63. Without this exemption, permitting authorities would be required to conduct a case-by-case MACT determination in cases where: (1) The emission rate exceeds a *de minimis* level as defined in the proposed rule for purposes of section 112(g) of the Act, but (2) the emitting equipment is below an applicability cutoff in a promulgated MACT standard. Such standards may describe an equipment size or capacity, or a stack concentration below which the requirements may be inapplicable. The EPA believes that emissions below such a cutoff are consistent with "MACT" because a MACT evaluation was made in establishing the cutoff.

An example should serve to clarify this exemption. First, for equipment leaks for synthetic organic chemical manufacturing, the EPA has proposed regulation of streams in "VHAP service," i.e., where HAP contribute more than 5 percent of the stream. (See description of proposed 40 CFR part 63, subpart H requirements, 57 FR 62617–62719, December 31, 1992.) There may be instances where less than 5 percent of such a stream represents an increase that is greater than a *de minimis* emission rate listed in this proposed rule. If the final chemical plant standard, when promulgated, contains the 5 percent cutoff, the EPA believes that a case-by-case review for pollutants emitted at less than 5 percent was not intended by Congress in writing section 112(g).

The last sentence of paragraph 63.40(e) is intended to make clear that this paragraph is only intended to address situations involving a regulatory cutoff for specifically evaluated emission points. For example, the proposed synthetic organic chemical plant standard does not address boilers or other combustion equipment. If a physical change resulted in a greater than *de minimis* increase from such equipment, then paragraph 63.40(e) should not be interpreted to mean that they are exempted from the proposed rule.

*B. Section 63.41—Definitions*

1. Terms Defined in the General Provisions. A number of terms used in the defined rule have already been proposed for all of 40 CFR part 63 by the General Provisions contained in subpart A. Readers interested in the definitions and rationale for those terms should refer to recently promulgated subpart A. Relevant terms defined in the General Provisions include:

—Act
—Approved permit program
—Capital expenditure
—Effective date
—Federally enforceable
—Hazardous air pollutant
—Major source
—Permit program
—Potential to emit
—Relevant standard
—Title V Permit

2. Terms Related to Construction and Reconstruction. As noted above in section II of this preamble, the Act imposes more stringent requirements for major source "construction" and major source "reconstruction" than for major source "modification." There is a degree of ambiguity in the statute regarding what must occur in order to "construct" or "reconstruct" a major source. The following terms reflect two alternative readings of the statute and are included in section 63.41:

—Construct A Major Source
—Reconstruct A Major Source
—Green-field Site
—Emission Unit

A detailed discussion of these definitions and the two approaches is included in section II.C of this preamble.

3. Terms Related to MACT. Definitions for the following terms

related to levels of control technology are included in section 63.41 of the proposed rule:

—Available information
—MACT
—Control Technology
—MACT Floor
—MACT Emission Limitation for Existing Sources
—MACT Emission Limitation for New Sources

The basis for the MACT definitions is statutory language contained in section 112(d) of the Act. The term MACT appears only in section 112(g) of the Act, and does not appear elsewhere in section 112. There is, however, considerable legislative history indicating that this term refers to the level of control required by section 112(d) emission standards. This term was used in this context in the House Bill, H. R. 3030. For purposes of the definitions in the proposed rule, the EPA assumes that is a reference to the "maximum degree of reduction in emissions" language contained in section 112(d)(3). The minimum control technology requirements of section 112(d), often referred to as the "MACT floor" are cited a number of times in the proposed rule. To avoid repeating these requirements each time, the regulation includes a definition of "MACT floor." The term "available information" is used to define the extent of review for permitting authorities and applicants for case-by-case MACT determinations.

4. Terms Affecting Extent of Coverage by MACT. The following terms are used to describe equipment subject to a MACT determination:

—Emission point
—MACT-affected emission unit
—List of source categories

An "emission point," as defined in the regulation, is defined narrowly to refer to any individual point of release to the atmosphere. As described below, an individual MACT determination will often be made at once for a number of emission points. The term "MACT-affected emission unit" is used to refer to the collection of all emission points considered when such a MACT determination is made.

One purpose of the term "MACT-affected emission unit" is to clarify that a major source "construction" "reconstruction" or "modification" project which involves more than one emission point or emission unit may require more than one MACT determination. As outlined in paragraph (3) of the definition, the EPA believes that MACT determinations consistent with section 112(d) of the Act may not include combinations of emission points involving more than one category on a published list of source categories (57 FR 31576). For example, most types of combustion sources appear as individually listed categories. As a result, a "construction" "reconstruction" or "modification" involving boilers and other process equipment must make a separate MACT determination for the boilers.

Another purpose of the term "MACT-affected emission unit" is to provide owners and operators of modified major source with additional flexibility. There are situations, such as that displayed in Figure 4, for which there may be overall technologies that would reduce emissions more effectively than applying MACT to each emission point being changed. Accordingly, paragraph (2)(ii) of the definition gives the owner and operator the discretion to include emission points in the "MACT-affected emission unit" in addition to those that are "affected by the modification." A detailed discussion of "affected by the modification appears below in section III.D of this preamble.

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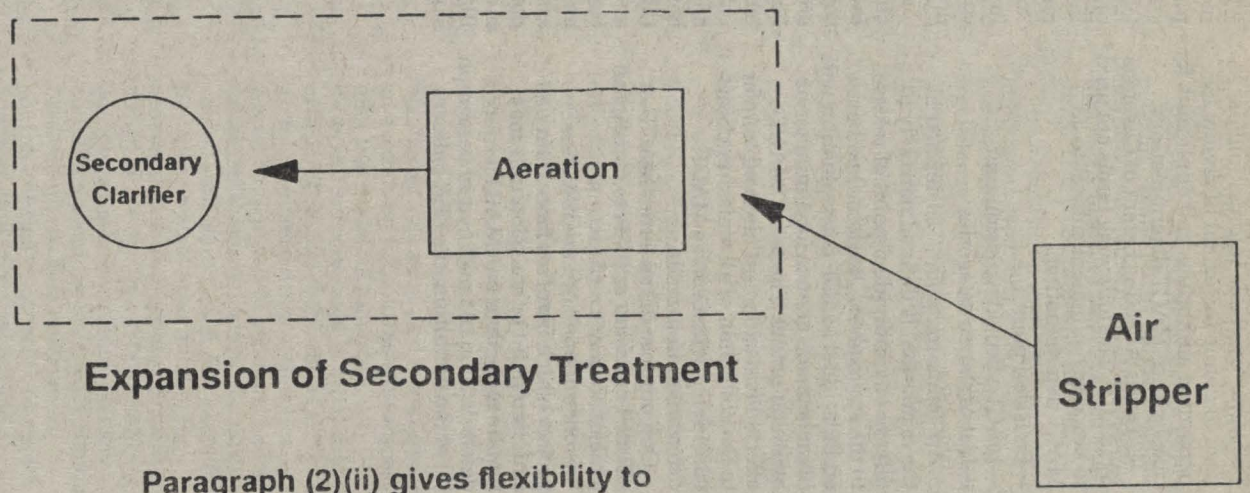
## Figure 4. Example Illustrating Paragraph (2)(ii) in the Definition of "MACT-affected emission unit"



The EPA considered requiring that the "MACT-affected emission unit" include additional emission points in cases where it is contrary to common practice to consider them in isolation from the emission point for which the "modification" has occurred. For example, the addition of a single pump or valve to a production unit may yield a determination to require a leak detection and repair program as the control measure. The EPA believes that it would not be good engineering practice to suggest a leak detection program for that unique pump or valve, or a different leak detection program from that for other equipment within the same production unit. By including all equipment in the production unit as part of the "MACT-affected emission unit," a more reasonable assessment of control alternatives may result. The EPA believes, however, that inclusion of Figure 4. Example Illustrating Paragraph (2)(ii) in the Definition of "MACT-affected emission unit" this provision is probably not needed, because permitting authorities will generally treat such equipment as a single grouping. In addition, this provision may lead to confusion as to which situations would require broader MACT coverage. The EPA requests comment on whether this provision should be included in the final rule.

5. *De minimis*. The definition of *de minimis* is discussed below in section III.E. of this preamble.

6. Electric Utility Steam Generating Unit. The definition of electric utility steam generating unit in the proposed rule is taken directly from section 112(a) of the Act.

7. Source Reduction Project. As discussed below (see discussion related to § 63.47 of the proposed rule), the proposed rule provides for source reduction projects to be considered in identifying emission offsets. The definition of "source reduction project" is intended to be consistent with the Pollution Prevention Act, Public Law 101–503.

C. Section 63.42—Requirements for Constructed and Reconstructed Major Sources. Section 63.42 (in combination with a number of definitions contained in § 63.41) contains the requirements for constructed and reconstructed major sources described in section 112(g)(2)(B) of the Act. Equipment affected by this section must comply with a "new source MACT" level of control. The EPA requests comment on its interpretation of the statutory language pertaining to constructed and reconstructed major sources.

1. "Green-field" Facilities. The most straightforward case for section 112(g) is for a new plant site emitting (or having the potential to emit) more than major amounts of HAP (that is, 10 tons/yr individually, 25 tons/yr collectively, or amounts that exceed any lesser quantity cutoffs that may be established under subpart C of part 63). The EPA believes that the statute clearly requires such a new plant site to be treated as a "constructed major source" subject to a "new source MACT" level of control.

2. Addition of Equipment at an Existing Plant Site. Another important situation to address is the addition of equipment emitting major amounts, i.e., greater than 10 tons per year of one HAP, or greater than 25 tons per year from all HAP, to an existing major source plant site. An example of such an addition is shown in Figure 5.

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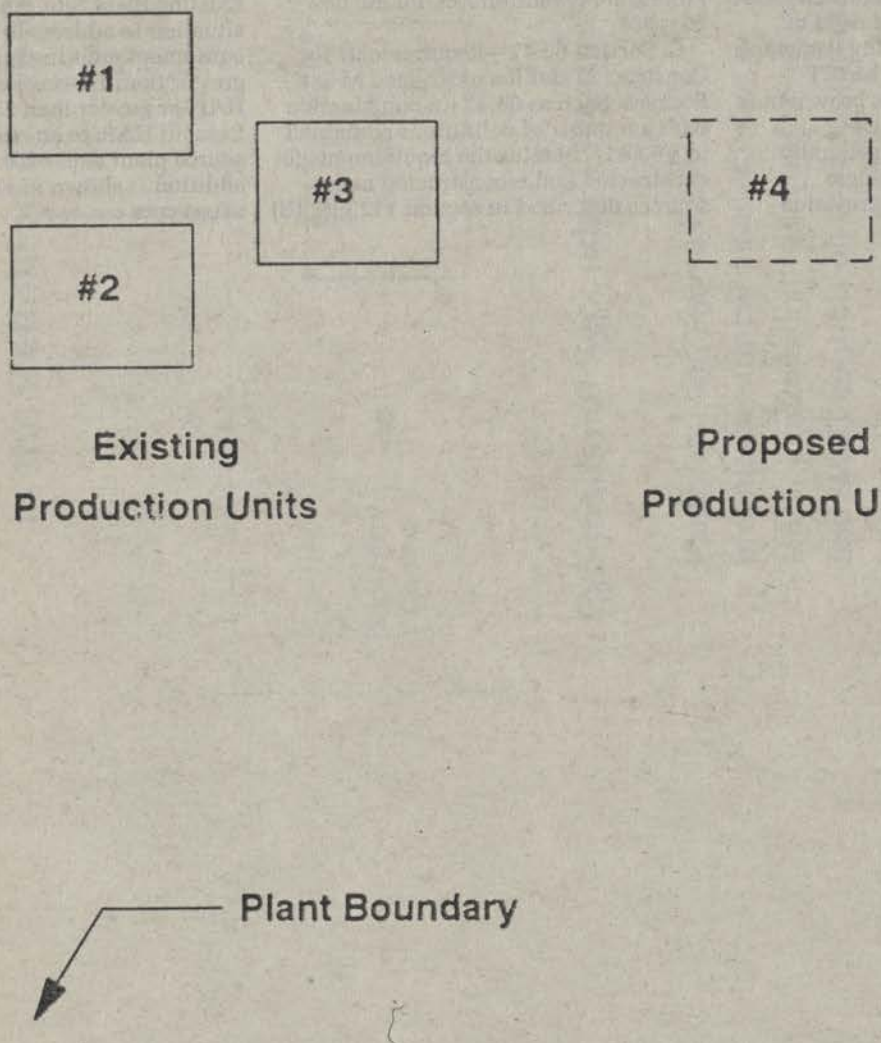
## Figure 5. Example Plant

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The EPA believes that there are two possible readings of the Act with respect to this situation, and that both readings are consistent with the definition of "major source" in section 112(a) of the Act. Under the first reading, the addition of equipment at an existing plant site would constitute "construction of a major source" because the addition would entail the construction of "a stationary source or group of stationary sources" emitting major amounts (that is, 10 tons/yr individually, 25 tons/yr collectively, or amounts that exceed any lesser quantity cutoffs that may be established under subpart C of part 63). This equipment addition would be subject to a "new source MACT" level of control which is likely to be more stringent than the "existing source MACT" level of control for "modifications." Also, there would be no opportunity to provide for emission offsets in lieu of a control technology demonstration.

Under the second reading, the entire plant site would be treated as a "stationary source or group of stationary sources" and any such addition would be treated as a major source "modification." If treated as a possible "modification," then the Act provides the opportunity to seek such offsets and, if such offsets are provided, then the new equipment could be operated without controls, or with controls that are less stringent than MACT, until an applicable standard is promulgated under section 112(d). If offsets were not provided, the equipment would be controlled with existing source MACT.

The EPA believes that there are advantages and disadvantages of both readings.

The "construction" reading ensures that major-emitting equipment additions (that is, those emitting more than 10 tons/year of a HAP, or 25 tons per year from all HAP, or amounts exceeding a lesser quantity cutoff), which generally would represent sizeable investments, would be built with state-of-the art control technology. It is generally recognized that it is more straightforward to build such a level of control technology into the original design, and that it is difficult or impossible to retrofit such controls at a later date. A fundamental goal of programs such as the new source performance standards (NSPS) program under section 111 of the Act and the effluent guidelines program under the Clean Water Act is to achieve long-term reductions in emissions by requiring "best" controls as old production operations are replaced with new operations. However, the "construction" definition precludes offsetting—which in some cases might result in a greater reduction in overall hazard by focusing controls on pollutants of greater regulatory concern and by reducing the total quantities of pollutants.

For equipment additions occurring after EPA has proposed a section 112(d) standard, the "construction" reading would provide greater consistency if the equipment addition meets the definition of "new source" in that section 112(d) standard. If the equipment is a "new source" in the proposed standard, any such "new source" constructed after the proposal date of the standard is required to install "new source MACT" upon promulgation of the standard. Inconsistencies would result if the same equipment, if major-emitting, was treated as a "modification" in today's proposed rule.

The "modification" reading provides sources the flexibility to completely offset increased emissions—thereby achieving a greater emission reduction than the "construction" definition, presumably at less cost. However, where sources opt to install existing source MACT rather than offset, emission reductions could be less than if the source installed new source MACT. In addition, it is difficult to judge whether emission reductions being used as offsets would have occurred whether or not the plant is being modified. The EPA is not able to determine which approach would result in lower net emissions over time.

Also, the "modification" reading may lead to inequities in the implementation of the program. As shown in Figure 6, a "green-field" plant site emitting 10 tons per year would be subject to a new source MACT, while addition of identical equipment at an existing plant would be subject to existing source MACT (or emissions would have to be offset).

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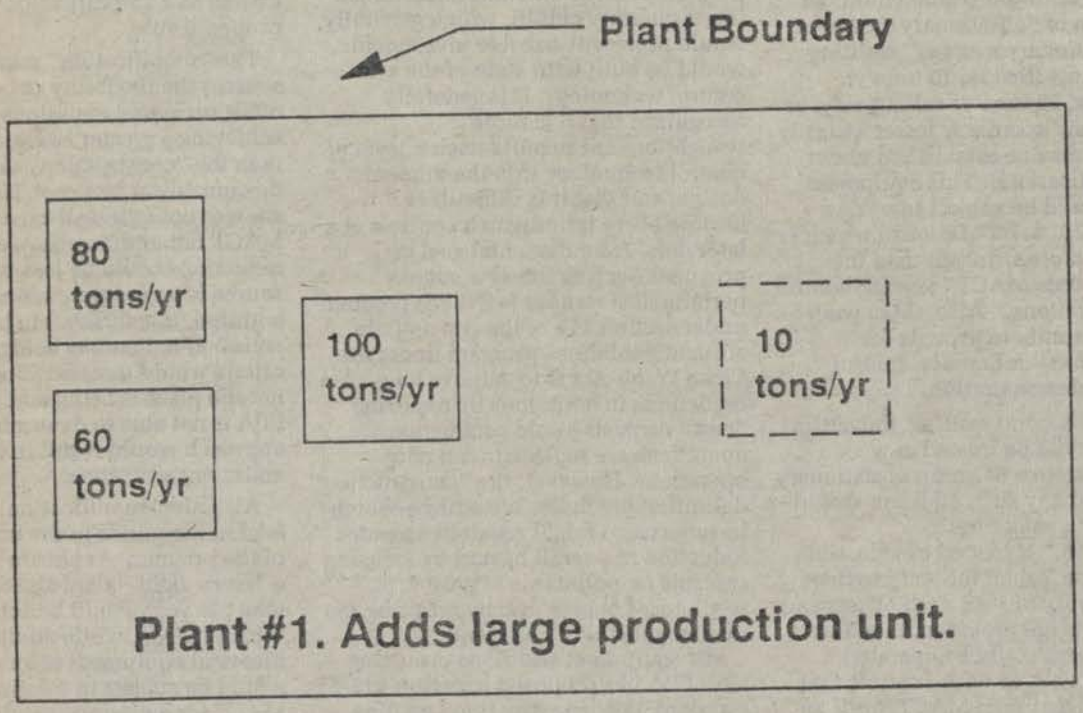
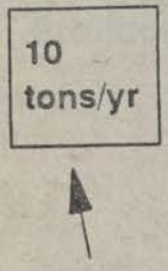
# Figure 6. Equity Issue




Plant #2. Small new greenfield plant.

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The "modification" reading would appear to be the most consistent with the approach taken by the EPA in the prevention of significant deterioration (PSD) and non-attainment new source review (NSR) programs for criteria air pollutants. The PSD program includes a "netting" provision which takes into account plant-wide emission increases and decreases in evaluating whether a "modification" has occurred. The NSR program also takes plant-wide emission reductions into account in determining applicability of the program to equipment additions. The ability to consider plant-wide emission reductions was upheld in a 1985 Supreme Court decision [Chevron USA, Inc. v. Natural Resources Defense Counsel, 467 U.S. 837 (1984)]. One difference between the PSD and NSR programs and the section 112(g) program in the proposed rule is that most equipment additions which avoid "best" or "lowest achievable" controls under these programs must still meet a "best demonstrated" level of control if NSPS standards have been established. For section 112(g), however, an equipment addition could avoid controlling HAP emissions entirely until a MACT standard is established. Additionally, the PSD and NSR programs are focused on preserving or attaining national ambient air quality standards. The EPA requests comment on whether the lack of such ambient criteria for HAP would suggest a greater technology focus under section 112(g).

The EPA requests public comment on these two interpretations. For the proposed rule, both interpretations are presented as separate "alternatives."

Under Alternative A, addition of a major-emitting "emission unit" is included within the definition of "construct a major source." The definition of emission unit is the same as that used for regulations proposed pursuant to section 112(j) of the Act. The definition is intended to provide permitting authorities with considerable flexibility in determining the "entity" which would be treated as "construction." The EPA requests comment on whether more prescriptive language for this term would be desirable.

Under Alternative B, the only activity that is included within the definition of "construct a major source" is the addition of major-emitting equipment at a green-field site. By implication, any such activity at a site which is not a green-field site is regulated under the modifications provisions of § 63.43 of the proposed rule. The term "green-field site" generally refers to equipment constructed in a previously undeveloped area. There are, however, situations where a virtually undeveloped area or small commercial or industrial equipment could exist at a site for which a major source is to be constructed. Accordingly, the proposed definition of "green-field site" includes as "green-field" a site for which the total emissions of any given HAP are less than *de minimis*. The EPA requests comment on other possible definitions of this term.

The EPA also requests comments on other possible approaches to the definition of "construct a major source." One approach suggested to the EPA would include any equipment addition at a major source emitting more than *de minimis* quantities within the definition of "construct a major source." The EPA believes that this reading is inconsistent with the statute. In addition, in structuring standards under section 112(d), it is unlikely that the EPA will promulgate standards that would treat all equipment additions as "new." The EPA requests public comment on whether such an interpretation is appropriate.

3. Reconstruction. Section 112(g) continues the concept of "reconstruction" contained in past regulatory programs. The concept of reconstruction is intended to prevent the circumvention of "new source" requirements by completely overhauling existing equipment. Current air pollutant emission standards under previous requirements of the Act treat replacement of components as a reconstruction if the replacement represents more than 50 percent of an entirely new facility.

For section 112(g), the requirements apply to the reconstruction of a "major source," and the proposed rule defines "reconstruct a major source" as the replacement of components at a major source such that the replacement exceeds 50 percent of the capital cost of an entirely new major source. Two alternative definitions of "reconstruct a major source" are included in § 63.41 of the proposed rule; these two definitions are intended to coincide with the two alternative definitions of "construct a major source" discussed previously.

Under Alternative A, "reconstruct a major source" is based upon an emission unit. If an emission unit emits major amounts, then the replacement of components at that unit would be considered a "reconstruction" if the cost of the replacement exceeds 50 percent of the cost of an entirely new unit. In this case, new source MACT would be required for the emission unit.

Under Alternative B, "reconstruct a major source" is based upon all equipment within the entire contiguous plant site. The definition includes only those situations where the replacement of components would exceed 50 percent of the cost of the entire plant site. Under Alternative B, the probability that a reconstruction would occur is substantially decreased. If, however, a reconstruction did occur under this definition, it would require the entire plant to install new source MACT.

The EPA requests public comment on the definition of "reconstruct a major source" in the proposed rule.

4. Control Technology Review Requirements For Constructed and Reconstructed Major Sources. Section 63.42 reflects the statutory requirement that an owner or operator who proposes to "construct or reconstruct" a major source must obtain a determination from "the permitting authority" that a new source MACT emissions limitation will be met. The "permitting authority" is defined as the agency responsible for the title V permit program. Further discussion on this issue, and on other issues related to implementation of section 112(g), is contained in section V of this preamble.

The requirements and procedures for obtaining the MACT determinations are contained in § 63.45 of the proposed rule (see discussion below).

*D. Section 63.43—Requirements for Modified Major Sources*

Section 63.43 of the proposed rule is intended to clarify the requirements in sections 112(a) and 112(g) of the Act related to major source modifications.

Section 112(a) of the Act defines the term "modification" as:

> any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a *de minimis* amount or which results in the emissions of any hazardous air pollutant not previously emitted by more than a *de minimis* amount.

Section 112(g)(2)(A) of the Act states that:

> After the effective date of a permit program under title V in any State, no person may modify a major source of hazardous air pollutants in such State, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for existing sources will be met. Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.

There are a number of questions raised by this statutory language for which interpretations are needed. In particular, three questions are addressed by § 63.43 of the proposed rule:

(a) How much of a major source must be controlled to a MACT level when a modification occurs?

(b) What is a physical change or change in the method of operation?

(c) How should actual emission increases be calculated?

The EPA requests public comment on the various statutory interpretations contained in this section. One important overall interpretation is that the process for a modification under section 112(g) of the Act should follow a similar two-step process as contained in previous modifications requirements under the NSPS and PSD programs.

1. General Requirements for Modifications (Paragraph 63.43(a). Paragraph 63.43(a) outlines the overall statutory requirements for major source modifications. An owner or operator who wishes to modify a major source is required by this paragraph to obtain a determination from the permitting authority that "the MACT emission limitation for existing sources" will be met. The "permitting authority" is defined in the proposed rule as the agency implementing title V of the Act (see further discussion in section V.A of this preamble).

Paragraph 63.43(a) requires that the MACT determinations be made consistent with § 63.45 of the proposed rule (see discussion below). A determination is required for "all emission points affected by the modification" according to paragraph 63.43(b). The phrase *all emission points* is used intentionally rather than *each* emission point in order to provide the flexibility to evaluate control technologies over the entire modification. In some cases, a MACT determination made for a combination of emission points may yield a more cost-effective strategy than controlling each emission point individually.

Paragraph 63.43(a) also refers to two important exceptions. First, certain activities, listed in paragraph 63.43(c), are excluded from consideration as "physical changes" or "changes in the method of operation." Second, paragraph 63.43(e) gives the owner and operator the option to provide an offset demonstration.

2. Paragraph 63.43(b). "Modification" and "Emission Points Affected by the Modification." Section 112(g)(2)(A) of the Act requires that "the MACT emission limitation for existing sources will be met," but it does not specify *which* emitting equipment at the major sources is subject to the MACT determination when a modification occurs. For the proposed rule the term "emission points affected by the modification" is used as an approach to clarifying this ambiguous phrase.

Paragraph 63.43(b) in the proposed rule clarifies how the terms "modification" and "emission points affected by the modification" are used in the proposed rule.

Paragraph 63.43(b)(1) identifies three different situations which could be a "modification:"

—An emission increase from a single emission point that is greater than *de minimis*,

—Construction of any emission point at a major source that emits greater than *de minimis* amounts, but not enough to be considered "construction" in accordance with § 63.42 of the proposed rule, and

—Emission increases from multiple emission points where the sum of the emission increases exceeds *de minimis* amounts for a given modification project. (The intent of this latter provision is to ensure that modification projects are considered as a whole in evaluating whether the increase is greater than *de minimis*. This provision is not intended to require owner or operators to keep a running tally of all emission increases and decreases.)

Paragraph 63.43(b)(2) further clarifies how an "emission increase" is to be determined for purposes of identifying a "modification." An "emission increase" occurs if a "physical change in or change in the method of operation of" the major source leads to an actual emission increase as calculated in accordance with paragraph (e) (see discussion below).

Paragraph 63.43(b)(3) identifies as "emission points affected by the modification" those emission points that increase in emissions, as determined by paragraph 63.43(b)(2), and that "contribute" to a greater than *de minimis* increase in emissions. The word "contribute" means that emission points are included in cases where that emission point in any of itself does not increase emissions by more than a *de minimis* amount, but the modification as a whole does. The EPA considered an option which would identify as affected only those emission points that "significantly" contribute to a greater than *de minimis* increase. In some cases, the total emissions resulting from a project may exceed *de minimis* amounts for a given HAP, but some emission points may have very small emission increases of that HAP. For such cases, the inclusion of the term "significant" could serve to exempt such equipment from review. The EPA is concerned, however, that it is difficult to define "significant" in a way that would be reasonable and consistently applied. The EPA believes that the inclusion of such sources in other programs, such as BACT reviews in the PSD program, has not led to the imposition of unreasonable controls. The EPA requests comment on whether the term "significant" should be included in this paragraph, and, if so, how it should be defined.

The EPA considered alternative approaches to MACT coverage that may also be consistent with the Act. One approach would apply MACT plant-wide when a change to the plant constitutes a modification. This approach would interpret the language to mean that a modification of a major source requires MACT for the entire major source. While this approach would maximize emission reductions, the EPA believes that it would greatly complicate the review process. Many plants have hundreds of emission points that release HAP to the atmosphere. The EPA does not believe that Congress intended for a case-by-case review of all emission points any time one emission point was modified, or any time an emission point was added to the plant. This would greatly increase the review time, would increase the burden on State and local agencies to analyze the available control technologies for existing equipment. Also, there would be an increase in the costs associated with an equipment modification. The EPA does not believe that these results were intended.

Another approach considered would be to subdivide a given major source plant site into distinct major-emitting emission units. Such an approach would treat each subdivision as a separate "major source" in and of itself and would apply MACT to all emission points within the "major source" being modified. Under this approach, MACT would not apply to the entire plant, but could incorporate additional emission points. The EPA believes that such an approach would be very complex to administer in that it would be difficult to define the appropriate "major source" subdivisions. The EPA requests comments on whether such an approach is consistent with the intent of the statute.

3. Paragraph 63.43(c) Activities Excluded from the Definition of Physical Change or Change in the Method of Operation. (Step 1 of the 2-Step Process to Identify Modifications). In paragraph 63.43(b), the term "physical change or change in the method of operation" is used frequently. For both the PSD program (40 CFR 52.21), the NSPS program (40 CFR part

60), the program for National Emission Standards for Hazardous Air Pollutants (NESHAP) prior the 1990 amendments to the Act (40 CFR part 61), and the criteria pollutant nonattainment area new source review (NSR) program, there are a number of activities that are *not* considered to be a physical change or change in the method of operation. For the PSD program (see 40 CFR part 52.21), the following activities are excluded:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plant pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any Federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any Federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or 40 CFR 51.166.

Under the NSPS/NESHAP program (see 40 CFR part 60.15 and 61.15), the following activities are specifically excluded from the definition of a modification:

(a) Maintenance, repair, and replacement which the Administrator determines to be routine for a source category;

(b) An increase in production rate of an existing facility if that increase can be accomplished without a capital expenditure on that facility;

(c) An increase in the hours of operation;

(d) Use of an alternative fuel or raw material if prior to the date of * * * [a particular NSPS or NESHAP], the existing facility was designed to accommodate that alternative use. A facility shall be considered to be designed to accommodate an alternative fuel or raw material if that use could be accomplished under the facility's construction specifications as amended prior to the change. Conversion to coal required for energy considerations, as specified in section 111(a)(8) of the Act, shall not be considered a modification.

(e) The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial.

The EPA believes that Congress intended the EPA to base the exclusions for HAP modifications under section 112(g) on these existing criteria. According to Senator Lautenberg (136 Cong. Rec. S 17124–5 (October 26, 1990).):

> With the exception of the allowance for a *de minimis* increase in emissions, the definition is identical to the definition of modifications in section 111 of existing law. Under this provision, the EPA has issued regulations specifying certain kinds of activities which would not constitute a modification. *Clearly it is intended that such kinds of activities would also be excluded from triggering the modification definition under the new section 112.* (emphasis added)

The proposed rule incorporates a very similar list of exclusions in paragraph 63.43(c). Regarding increases in production rate, the proposed rule uses the "capital expenditure" language in part 60. The definition of a "capital expenditure" is given in the proposed Subpart A "General Provisions" to 40 CFR part 63. A standard procedure for the determination of "capital expenditure," using methods in an Internal Revenue Service (IRS) publication, is provided in this definition. Similar to the PSD program, increases in the hours of operation are not considered a physical change under the proposed rule unless they are prohibited by an existing Federally enforceable requirement. The proposed rule uses the effective date of the title V permit program as the date by which an alternative fuel or raw material must have been accommodated.

The EPA requests comment on use of these exclusions in the proposed rule. In particular, the EPA requests comment on whether a raw material substitution involving a substitution of one raw material with another raw material of greater hazard should be automatically excluded from consideration as a modification. The proposed rule considers substitution with a "more hazardous" raw material to constitute a possible "modification" unless the use of the substitute raw material was already allowed by a permit. The proposed rule includes a definition of "operations that the major source is designed to accommodate" which allows for materials accommodated by an existing permit to be used without triggering section 112(g) requirements. In addition, this definition allows for operational changes to be made in cases where they are clearly within the permit. For example, some batch chemical reaction trains are allowed by permits to produce a number of different chemicals. In switching from production of one chemical to another, it may be necessary to make a number of pre-approved equipment changes. The EPA requests comment on whether such equipment changes, if approved in a permit, issued prior to the effective date of the section 112(g) rule, should constitute "operations that the major source is designed to accommodate" and should not trigger a "modifications" review pursuant to section 112(g).

The EPA also seeks comment on whether such operational changes, contained in permits issued prior to the effective date of the section 112(g) rule, should be incorporated into a title V permit without triggering section 112(g) review.

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In addition, § 63.45(c)(3) of the proposed rule provides that a source may seek approval of case-by-case MACT determination for new alternate operating scenarios (that were not incorporated in a State permit) when obtaining it's title V permit. As a result, the source would then be free to activate any such alternative operating scenario without having to undergo further section 112(g) review. The EPA requests comment on whether the approach contained in proposed § 63.45(c)(3) is an appropriate approach to application of section 112(g) requirements to alternate operating scenarios.

4. Calculation of Actual Emissions Increase. (Step 2 of the Process to Identify a Modification). Once a physical or operational change has been identified for a given emission point or set of emission points, the next step is to determine whether there has been an increase in "actual emissions," and to calculate the amount of the increase. If such an "actual emission increase" is more than a *de minimis* level (per § 63.44 of the proposed rule, see discussion below), then the change constitutes a "modification."

Any method for calculating an increase must provide for a "before" case, often referred to as the "baseline," and an "after" case representing the emission after the change.

When the physical change involves addition of a new emission point, the baseline is zero emissions and it is only

necessary to define anticipated future emissions. For the proposed rule, the "after" case is considered to be the potential to emit. "Potential to emit" is defined in subpart A. Physical and operational limitations can be considered if the limitations are Federally enforceable.

When the physical or operational change involves an emission increase from already existing equipment, emissions before and after the change must be compared.

In developing an approach to this case for the proposed rule, the EPA reviewed two approaches to emission increase calculations which have been used in past air pollution programs for criteria air pollutants. The first approach is the approach used in the new source performance standard (NSPS) program to determine whether "any emission increase" has occurred due to a physical change or change in the method of operation. The second approach is the "actual emission increase" approach used in the PSD program.

The approach used for the NSPS program (and the NESHAP program in 40 CFR part 61, before the 1990 Act amendments) is more straightforward than that used for the PSD program. For these regulations, a "modification" occurs if the physical change leads to "any increase" in emissions. In making this determination, they must follow the approach outlined in 40 CFR 60.14(b). This approach considers "any increase" to occur if the source, operating at its production capacity, will release more emissions (on a pound per hour basis) to the atmosphere. If the emission factor (that is, the amount of emissions per unit of production) increases, or the equipment is otherwise inherently more emitting (for example, due to a capital expenditure increasing the size or capacity of equipment), an increase is considered to have occurred and the equipment is subject to the NSPS. In some cases, source tests before and after the change are used to demonstrate whether an emission increase has occurred.

This approach is fairly straightforward to implement and relies on immediately available data rather than past records. In addition, Senator Lautenberg's belief that the definition of actual emissions is "identical to that in section 111" may suggest that Congressional intent was for the NSPS approach to identifying modifications.

The EPA believes that calculations based upon the NSPS method could serve as a reasonable surrogate for an "actual emissions" calculation. In an ideal sense, a true "actual emissions" calculation would require perfect knowledge of the level of emissions that actually occurred in the past, and perfect knowledge of the emissions that would actually occur in the future if the change were to take place. In practice, past emissions are difficult to document (and for HAP, perhaps impossible if appropriate data have not been collected), and future emissions cannot be predicted with certainty. In this context, the EPA believes that a policy decision can be made to consider the NSPS test as a possible method for actual emissions calculations. Although this approach does not attempt to gather "actual" data on past emission rates, the EPA believes that it can be a reasonable surrogate for describing the "actual" difference between future and past emissions.

The term "actual emissions increase" has been used in the PSD program. For PSD, the term "baseline" is used to describe emissions before a physical or operational change. The "baseline" for actual emissions for an emission unit as of a particular date is defined as the average rate, in tons per year, at which the unit actually emitted the pollutant during a 2-year period which precedes the particular date and is representative of normal source operation. A different time period is allowed if the permitting authority deems that it is more representative of normal source operation. Under this approach, emissions after the operational change are the potential to emit, in tons per year. This approach requires that records be supplied of the actual rates of operation during the baseline period.

The EPA is concerned that the PSD approach may be administratively complex. For the PSD program, this approach to applicability has proven very complex for criteria pollutants such as volatile organic compounds (VOC). Protracted discussions are often required to establish the appropriate time period for the actual "before" case emissions and to approve documentation for the actual rates of production and operation. This approach would be more complex for HAP for which VOC totals would need to be speciated into individual HAP subtotals. It may be very difficult or impossible in many cases to provide for adequate documentation of these HAP subtotals.

The EPA also notes that there is an ongoing project aimed at reforming the PSD program. A number of options are being considered. If the PSD program is revised to accommodate one of these approaches, that approach may be applicable to section 112(g) implementation. The PSD reform project is proceeding in parallel with the effort to develop this proposed rule. The EPA requests comment on whether any suggested applicability approach in the proposed rulemaking for a restructured PSD program should be selected as the approach to implementation of section 112(g) of the Act. The EPA requests comment on whether any of these approaches should be included in the final rule.

The proposed rule contains, as paragraph 63.43(d), an approach to "actual emissions" that closely resembles the NSPS approach. The EPA believes that this approach will yield a more consistently implemented program that ensures a technology review when a physical change causes increased emissions during the operation of the equipment being changed. The approach differs slightly from the NSPS approach for pollutants for which the *de minimis* value listed in § 63.45 of the proposed rule is expressed as a tons per year value. For such pollutants, paragraph 63.43(d) includes a two-step process. The first step is to determine the pounds per hour increase, as would be done for the NSPS test. The second step is to convert the pounds per hour value to a tons per year value based upon the future hours of operation of the equipment. For this conversion, it is assumed that the equipment will operate 8760 hours per year unless constrained by a Federally enforceable limitation.

5. Paragraph 63.43(e)—Offsets. If a physical change leads to actual emission increases by more than a *de minimis* amount, that increase is *not* a "modification", if, according to section 112(g)(1)(A) of the Act:

> such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous

Paragraph 63.43(e) of the proposed rule incorporates this offset provision. This paragraph allows the owner or operator to submit a showing (consistent with § 63.46 and § 63.47, see discussion below) to demonstrate the acceptability of the offset. The process for determining whether offsets are "deemed more hazardous" is contained in § 63.48 of the proposed rule (see discussion in section IV of this preamble).

Paragraph 63.43(e) identifies some general restrictions on the offsets that are used. (Additional restrictions are contained in §§ 63.46 and 63.47 of the proposed rule.) First, a decrease in actual emissions cannot credit any amount of actual emissions that exceeds

allowable emissions under a Federally enforceable requirement. Second, the decrease must be Federally enforceable before operation of the physical change being offset. There are a number of mechanisms for Federal enforceability including: (1) A Notice of Offset approval under § 63.46 or § 63.47, a requirement of a State program approved under section 112(l) of the Act, (2) a permit condition contained in a permit issued pursuant to 40 CFR part 70 or 40 CFR part 71, (3) a Federally enforceable requirement of a PSD or NSR permit, (4) a requirement of a Federally approved State Implementation Plan, or (5) a Federally enforceable court order. Third, the owner or operator may not credit any emission decreases used under the "early reductions" program to obtain the compliance extensions granted by section 112(i)(5) of the Act. Any amount exceeding the 90 (or 95) percent reduction required by the early reduction program is, however, creditable. The EPA considered adding a further restriction on: (1) Emission reductions of volatile organic compounds (VOC) that were necessary to achieve progress towards attainment of the ozone standard, and (2) reductions of VOC and other pollutants previously credited under the PSD or NSR programs. The proposed rule would in some cases allow such emission reductions to be creditable as offsets. The EPA requests comment on this issue.

6. Paragraph 63.43(f). Increases and Decreases of the Same Pollutant. There is some ambiguity in the Act regarding cases where a modification leading to an increase in a given pollutant will be accompanied by a decrease in the same pollutant elsewhere in the plant. Paragraph 63.43(f) is intended to clarify EPA's position on this issue. For such cases, the proposed rule requires that the emission decreases be documented using the procedures of § 63.46 or 63.47 of the proposed rule. If the net emission increase is less than *de minimis*, then a modification has not occurred.

The EPA considered an alternative that would require that emission decreases in such cases to completely offset the increase such that an overall decrease would occur. The EPA believes that the requirements of proposed § 63.43(f) reflect the most natural reading of the statute. The EPA requests comment on this issue.

*E. Section 63.44. De Minimis Levels*

As mentioned previously, an emission increase must exceed *de minimis* levels in order to constitute a "modification" under section 112(g) of the Act. The proposed rule includes, as § 63.44, a table displaying *de minimis* emission rates for each of the HAP.

1. *De Minimis.* General Principles. The statute gives little specific direction on how to establish *de minimis* quantities. In establishing *de minimis* values, the EPA believes there are general principles that have been established. A good discussion of these principles is included in the April 20, 1979 *Alabama Power* decision. (*Alabama Power* v. *Costle*, 656 F. 2nd 323 (1979). Generally, *de minimis* authority gives regulatory agencies such as the EPA the ability to provide exemptions when "the burdens of regulation yield a gain of trivial or no value." Further, "the *de minimis* exemption must be designed with the specific administrative burdens and specific regulatory context in mind." The overall intent of such exemptions is to prevent relatively trivial items from needlessly draining administrative resources.

In keeping with these general principles, the EPA believes the main test in establishing *de minimis* values is to define the emission level for HAP for which regulation under section 112(g) would "yield a gain of trivial or no value."

It appears that some limited consideration can be given to administrative resource implications resulting from a selected *de minimis* emission level. For example, if a selected *de minimis* cutoff yielded very small benefits, but would increase the number of applications, reviews, and enforcement resources by an unreasonable degree, and a slightly higher cutoff would not create as unreasonable a burden, the EPA believes that this could be taken into consideration.

The EPA recognizes, however, that its authority to provide *de minimis* exemptions is strictly limited. Again citing *Alabama Power*,

> That implied authority * * * [for *de minimis*] * * * is not available for a situation where the regulatory function does provide benefits, in the sense of furthering the regulatory objectives, but the agency concludes that the acknowledged benefits are exceeded by the costs.

The EPA believes that the interpretation of *de minimis* detailed herein correctly balances the requirement to meet regulatory objectives, while alleviating the burdens of regulation which would yield a trivial value *in this specific regulatory context.*

2. *De Minimis* Concepts in Section 112 of the Act. The EPA believes that Congress has provided guidance in what is considered to be a "trivial" level of a hazardous air pollutant. In section 112(c)(9) of the Act, the EPA may delete a source category from possible regulation under section 112 if no source in the source category would result in: (1) Emission of a carcinogen that could cause a lifetime risk of cancer of one in one million to the individual in the populations who is most exposed, and (2) emission of a non-carcinogen that would exceed air quality levels that would exceed a level adequate to protect public health with an "ample margin of safety" and would not result in adverse environmental impacts. The concepts behind section 112(f) of the Act appear similar for "residual risk" emission standards to address risks remaining after application of technology-based standards. The EPA believes that it is reasonable to use the one-per-million cancer risk and ample margin of safety criteria for establishing *de minimis* levels under section 112(g). The EPA has traditionally believed that exposures that cause a risk above one in one million are considered important.

3. Basis for *de minimis* Values Listed in § 63.44 of the Proposed Rule. The table in § 63.44 of the proposed rule lists the *de minimis* values for the 189 HAP listed in section 112(b) of the Act. Readers interested in documentation for each *de minimis* value can refer to a technical support document, Background Document. Documentation of De Minimis Emission Rates for Proposed 40 CFR part 63, subpart B. (EPA–453/R–93–035) The following discussion is intended to provide an overview of the methods used to develop these values.

The section 112(b) list includes 172 pollutants that are listed as individual chemicals, and 17 pollutants that are listed as chemical groups. Where appropriate, the 17 chemical groups were subdivided into sub-groupings or individual compounds within the group. The table indicates, for each chemical or chemical group, a *de minimis* emission rate and the basis for each *de minimis* rate.

The EPA considered expressing the *de minimis* values as ambient concentrations, rather than emission rates. This would require either the applicant or the permitting authority to perform a dispersion calculation for each proposed release to determine whether a *de minimis* concentration would be exceeded. The EPA believes that this would greatly increase the complexity and thus the resources need to implement the program. Although the EPA believes that States wishing to include this dispersion review as part of an overall section 112(g) program should be given the flexibility to do so

(see discussion below), the EPA believes that most States would prefer *de minimis* values to be expressed as emission rates, rather than concentrations.

It is important to note that the *de minimis* values listed in § 63.44 were developed specifically for the section 112(g) program, and that the values were developed in part based upon the interim nature of the time period for which case-by-case MACT determinations are required. Such case-by-case MACT determinations are required under section 112(g) prior to emission standards promulgated pursuant to section 112(d). The EPA does not consider these values to be necessarily indicative of the emission rate which may be considered *de minimis* for other programs or decisions, for which the decisions would be more long-term in nature. In particular, these values should not be considered as precedent-setting for other section 112 issues such as the residual risk standard-setting process under section 112(f) or the risk criterion established for delisting categories pursuant to section 112(c) of the Act.

(a) Values for "nonthreshold" HAP which have evidence of carcinogenicity. For "nonthreshold" HAP which have evidence of carcinogenicity (see discussion in section IV.C.3 of this preamble for the rationale for identifying such pollutants), the following descriptors are used in the "Basis" column in the table:

—UR
—UR-CAP
—DEF=1

The "UR" descriptor indicates that the *de minimis* value was calculated based upon a risk-specific dose for the pollutant. The risk-specific dose is the exposure level associated with a given lifetime cancer risk, in this case, a risk management decision of $10^{-6}$ lifetime risk. The risk-specific dose is derived from the unit risk, an upper-bound estimate of the excess cancer risk over background associated with a continuous lifetime exposure to the pollutant. Readers should be aware that there are many uncertainties in the derivation of unit risk.

*De minimis* emission rates were calculated in four steps. First, based upon the unit risk value, the EPA calculated the concentration in the ambient air that would yield a lifetime cancer risk of one-per-million. Using benzene as the example, lifetime continuous exposure to 1 microgram per cubic meter of benzene is associated with a risk as high as 8.3 in one million, and a lifetime risk of one-per million is equivalent to 0.12 micrograms per cubic meter (one divided by 8.3).

The second step in the calculation was to adjust the risk-specific dose to account for the expected maximum exposure duration for a major source subject to a case-by-case MACT determination under section 112(g) of the Act. The EPA selected a 7-year exposure period as the duration of exposure, rather than the more frequently used 70-year lifetime exposure. The 7-year period was selected because emission increases avoiding modification requirements under a section 112(g) *de minimis* exemption would be still subject to maximum achievable control technology requirements within roughly 7 years under sections 112(j) or 112(d). The EPA is required to promulgate MACT standards in accordance with a schedule in section 112(e) of the Act by November 15, 2000. Such standards would require compliance for existing sources by no later than the year 2003. Even if the EPA does not meet every deadline in its schedule for promulgation of section 112(d) emission standards, States are required to develop equivalent emission standards within 18 months after the EPA fails to meet a deadline. As a result, the longest time for which standards would not be developed is 18 months after November 15, 2000, i.e., May 2002. Because the section 112(g) program will start up in most States in early 1995, (as soon as operating permit programs commence) about 7 years (2002 minus 1995), is a reasonable, conservative estimate of the time that would elapse before imposition of technology requirements for emission increases avoiding "modification" requirements.

Adjusting for this 7-year exposure period, using benzene as the example, a lifetime risk of one-per-million (0.12 micrograms per cubic meter over 70 years) is equivalent to the risk associated with exposure to 1.2 micrograms per cubic meter over 7 years. The EPA requests comment on this adjustment. Other exposure adjustments were considered, including: (1) No exposure adjustment, and (2) adjustment by a factor less than 70/7. The EPA requests comment on whether these or other alternatives better identify emission increases which can be considered *de minimis* for this program.

As a third step, in order to express the *de minimis* values as emission rates, rather than ambient concentration, the EPA developed a "model plant." This model plant represents a standard set of conditions for the nature of the release and the exposure. The following model plant was used:

—stack height: 10 meters
—stack diameter: 1 meter
—distance to nearest exposed individual: 200 meters
—stack temperature: ambient
—exit velocity: 0.1 m/sec
—worst-case down-wash is assumed

The EPA proposes these conditions as a reasonable set of conditions for purposes of setting *de minimis* values under section 112(g) of the Act.

For this model plant, the EPA performed calculations using 314 sets of meteorological data. (A complete description of these calculations is contained in the docket for the proposed rule.) The results of these calculations indicated, on average, that for each microgram per cubic meter of a pollutant added to the atmosphere at the assumed fence-line of 200 meters, there would be 2 tons of emissions. This ratio, 2 tons/yr per 1.0 $\mu g/m^3$, annual average, was used as the relationship between emission rate and ambient concentration.

As a fourth step, the EPA used the risk-specific dose at a one-per-million risk, identified in Step 2 above, in tandem with the relationship between emission rate and concentration developed in Step 3, to calculate a *de minimis* emission rate. For example, for benzene, Step 2 indicated an exposure associated with one-per-million risk of 1.2 $\mu g/m^3$ over the 7-year exposure period. In order to reach this exposure level, the model plant would need to emit $1.2 \times 2$, or 2.4 tons/year of benzene. For purposes of the proposed rule (i.e., the table in § 63.44), each of the values is rounded to one significant figure; for benzene, 2.4 tons/year is rounded to 2 tons/year. The EPA believes that one significant figure is appropriate, given the uncertainties in the unit risk values and exposure assumptions on which the values are based.

The EPA requests comment on the methodology for *de minimis* values, including the appropriateness of the assumptions used to develop the model plant. It is recognized that there are other model plant assumptions that would result in less dispersion, and that the selected model plant does not represent an absolute worst-case. For example, less dispersion could be experienced for: (1) Releases for which weather conditions represent the worst-case of the 314 stations, rather than the median of the 314 stations, (2) releases at ground level, rather than the assumed height of 10 meters, (3) releases immediately adjacent to residences, which could occur at distances less than the assumed 200 meters. The results of the dispersion calculations (which are

listed in Appendix A of the technical background document) indicated that the highest concentration experienced at the 314 stations was 15.6 μg/m³, while the lowest concentration was 2.2 μg/m³. The median value, 5.0 μ/m³, therefore, could underpredict by a factor of approximately 3, or could overpredict by a factor of approximately 2. The EPA also explored the sensitivity of the results to stack height and distance to nearest receptor. The following table illustrates this sensitivity analysis. (Stack release parameters not shown in the table are identical to those listed above.) The results indicate that, for a given 10 tons/year release, the resulting concentration could be significantly higher than, or significantly lower, than that resulting from the selected model plant.

| Stack height (meters) | Distance to nearest residence (meters) | Median concentration (μg/m³) |
|---|---|---|
| 1 | 200 | 16 |
| 3 | 100 | 34 |
| 3 | 500 | 3.4 |
| 10 | 100 | 6.7 |
| 10 | 200 | *5.0 |
| 10 | 500 | 2.8 |
| 15 | 200 | 2.5 |
| 50 | 200 | 0.15 |
| 100 | 200 | 0.026 |

*These conditions are the model plant used for the proposed rule.

The EPA is considering an approach for which two tables would be required to set *de minimis* values: (1) The table in § 63.44, and (2) a second table which would include an adjustment factor for site-specific conditions. For example, the adjustment factor would lead to lower *de minimis* values for sources with a 1 meter stack height and 50 meter distance to the receptor, but higher *de minimis* values for a source with a 25 meter stack and 1000 meter distance to the receptor. This approach would not require the applicant or the permitting authority to perform site-specific dispersion calculations. Rather, the table would specify adjustment factors that would apply to given ranges of conditions. (For example, there could be an adjustment factor applicable to stack heights from 1 to 3 meters, in combination with distances 100 meters or less to the receptor). This approach would have the advantages of taking site-specific variables into account (the EPA also requests comment on whether other variables, such as flow rate and temperature could be included). The EPA has two concerns with this approach. First, the approach would add administrative complexity to the process, in that documentation and enforcement of stack height, distance, etc., would be required. Second, the EPA requests comment on the policy advantages and disadvantages of an approach that would yield different levels of control for similar equipment.

The "UR–CAP" description in the table indicates that the unit risk approach yielded an emissions rate greater than 10 tons per year. Emissions of 10 tons per year or more of such pollutants from the model facility would yield risk levels below the *de minimis* bench mark. The proposed rule "caps" *de minimis* emission rates at 10 tons per year because the EPA believes that it would be difficult to assume that Congress intended, simultaneously, for an emission rate to be considered both "major" for identifying major sources and smaller than "trivial" for emission increases. However, the EPA is concerned that capping *de minimis* rates at 10 tons per year could bring sources into the program with modifications that pose a trivial threat to human health. The EPA seeks comments on this approach, on the feasibility of promulgating *de minimis* emission rates above 10 tons per year, and on the desirability of capping *de minimis* rates at a level less than 10 tons per year.

The "DEF=1" descriptor indicates that the pollutant was assigned a default value of 1 ton/yr. This default value was assigned for pollutants identified as possible, probable or known human carcinogens, but for which no unit risk value was available. The choice of 1 ton/yr is a policy decision based upon a review of the pollutants with potency values. The EPA does not believe that these pollutants should be assigned the 10 tons/year cap; if potency values were available, and were consistent with the other such pollutants, the value would likely be less than 10 tons per year. The EPA requests comment on this default value.

(b) Values for noncancer effects. For the remaining pollutants on the section 112(b) list that have not been evaluated for carcinogenicity or which have been assigned a weight of evidence classification of D or E, the EPA believes that *de minimis* values should be established that would be consistent with concentration benchmark that represent an "ample margin of safety."

The descriptor "RfC" in the table indicates that the *de minimis* emission rate was calculated based upon the EPA's inhalation reference concentrations (RfC's). The RfC is defined as an estimate (with an uncertainty spanning perhaps an order of magnitude) of a daily exposure to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a long-term period of exposure. For the proposed rule, the EPA assumes that the RfCs themselves represent an ample margin of safety level for noncancer effects from long-term exposures. The methodology for developing RfCs is discussed in Interim Methods for Development of Inhalation Reference Concentrations, EPA/600/8–90–066A. For the relatively few chemicals for which RfCs have been established, the EPA used a similar method to that described above for carcinogens, with the exception that there was no adjustment for the exposure period. No adjustment is made here because the RfC is designed to protect against chronic exposures, which is interpreted as less than lifetime (i.e., 7 years in this case).

There are a number of pollutants that have not been associated with cancer, and for which RfCs have not been developed. For these pollutants, default *de minimis* emission rates are derived from composite score values. The descriptor "CS" indicates when this approach was used. The composite score is a chronic toxicity ranking system developed for establishing reportable quantities (RQs) under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The basis for these composite scores is described in greater detail in section III of this preamble. For the CERCLA section 102 program, RQs are established for chronic noncancer effects as follows:

| CS value | RQ (pounds) |
|---|---|
| 1–5 | 5000 |
| 6–20 | 1000 |
| 21–40 | 100 |
| 41–80 | 10 |
| 81–100 | 1 |

The EPA believes that for section 112(g) purposes, pollutants with a relatively low CS value, (less than or equal to 20) can be assigned a *de minimis* emission rate at the 10 tons per year maximum. For pollutants with greater CS values, the EPA believes that *de minimis* emission rates less than the 10 tons per year "cap" should be established. For the proposed rule, the EPA has assigned *de minimis* emission rates that mirror the magnitude of the difference in the RQ values. That is, pollutants with CS scores between 21 and 40 are assigned *de minimis* emission rates which are a factor of 10 less than those for which the CS score is between 6 and 20. Pollutants with CS scores greater than 40 are assigned *de minimis* emission rates that

are a factor of 10 less than those for which the CS score is between 21 and 40. (Note that none of the threshold HAP for section 112(g) have a CS value greater than 80.) The EPA believes that the assignment of the *de minimis* emission rates in this manner for these ranges of CS values represents a reasonable default approach in absence of a more rigorous method. The EPA requests comment on this issue and on other approaches that could be used. The default assumptions are as follows:

| Range of composite score | De minimis emission rate |
|---|---|
| CS = 1 to 20 ..... | 10 tons/yr. |
| CS = 21 to 40 ..... | 1 ton/yr. |
| CS = 41 and greater . | 0.1 ton/yr. |

The descriptor "DEF=5" indicates the method used for pollutants with neither composite score, reference concentration, weight of evidence indicating carcinogenicity, or identified as acutely toxic (see section C below). For such pollutants, a default value of 5 tons/year was used. This value is greater than the 1 ton/year value for the pollutants which may be carcinogens. The EPA believes that this is reasonable considering the values for the other pollutants. The EPA requests comment on the selection of this 5 tons/year default value.

(c) *de minimis* values for short-term exposures. As discussed below in section IV.C. of this preamble, several pollutants on the HAP list produce health effects from short-term exposures. Examples of these pollutants include arsine, phosgene, and methyl isocyanate. These pollutants are addressed as follows.

First, a policy decision was made to assign a default annual *de minimis* emission rate of 0.1 tons per year. In this way, these pollutants are assigned a *de minimis* emission rate that is equal to the default value assigned for the pollutants of highest concern for chronic noncancer health effects.

Second, for a number of these pollutants, the EPA considered establishing and listing in the table short-term *de minimis* emission rates, expressed in pounds/hour. The EPA believes that such short-term values would be a better indicator of *de minimis* for pollutants which the primary concern is health effects resulting from short-term exposures. At this time, however, the EPA is not proposing these pounds/hour *de minimis* levels for three reasons. First, the EPA has not established consistent procedures for establishing RfCs for short-term exposures. Ideally, *de minimis* values for acutely toxic pollutants should be based on such short-term RfCs. However, there is currently only one short-term RfC which has been developed by the EPA (a value of 0.3 ppm for developmental toxicity by exposures of 30 minutes or less to ethylene oxide). Second, the EPA feels that additional information is needed on whether the inclusion of such short-term values would add significantly to the overall scope of the section 112(g) program. Finally, the EPA has some concern with the potential difficulty of collecting or reporting data on short-term emission rates from affected facilities.

The EPA is considering an interim method to establish short-term *de minimis* values based upon Levels of Concern (LOC). The LOC have been established for chemicals on the Superfund Amendments and Reauthorization Act (SARA) title III section 302 list of "extremely hazardous substances." The LOC indicate levels of airborne concentrations of chemicals for which no serious irreversible health effects occur following a short-term exposure (30 minutes). The LOC are by definition one-tenth of "Immediately Dangerous to Life and Health" levels (IDLH) produced by National Institute for Occupational Safety and Health (NIOSH).

The EPA believes that LOC have some possible merit for use in setting short-term *de minimis* values. The LOC are the only values, of which the EPA is aware, which have an extensive data-base and are designed to protect from serious effects of short-term or acute exposures. The LOCs are intended to protect the general population, including sensitive individuals.

There are, however, several disadvantages for using LOC to set *de minimis* levels; that is, in establishing a level below which public health is protected with an ample margin of safety for non-carcinogenic effects. Most of the LOC values are based upon animal lethality data. Benchmarks derived from such data may not protect against all health effects in humans. In addition, the safety factor of 10 which is applied to IDLH to protect sensitive individuals of the population and for protection against serious health effects may not be adequate. There are questions concerning the scientific peer review of the rationale for each LOC and supporting data. Finally, it is not known what the maximum duration of exposure at the LOC would be for protection against adverse effects.

Despite these serious disadvantages, LOC may be appropriate on an interim basis for setting short-term *de minimis* levels for acutely toxic pollutants in the absence of a better methodology and data. The EPA requests comment on the methodology and short-term *de minimis* emission rates described below and seeks suggestions concerning other methods and supporting data to use in determining such concentrations. In addition, the EPA requests comment on the number of major sources of HAP whose modifications would cause such *de minimis* emission rates to be exceeded.

The methodology the EPA is considering is as follows. First, for each pollutant of concern for acute exposures, a short-term *de minimis* concentration for each pollutant would be derived by dividing its LOC by a safety factor of 1000. This factor of 1000 is a crude estimate of the factor needed to convert the LOC, which is based upon mortality or very severe effects, into a level that would ensure that no adverse human health effects would be observed. Second, a "reasonable worst case" model plant is developed to describe the relationship between the *de minimis* concentration and a *de minimis* emission rate. For the examples described below, the same model plant was used as that described above for setting *de minimis* levels for long-term exposures:

Stack height is 10 meters;
Exit gas velocity is negligible;
Stack diameter is 1 meter;
Exit gas temperature is equal to the ambient temperature;
Worst-case down-wash is assumed;
The nearest exposed individual is at a distance of 200 meters.

For this model plant, the "Tier 1 screening approach" described in A Tiered Modeling Approach for Assessing the Risks Due to Hazardous Air Pollutants, EPA–450/4–92–01, is used to describe the relationship between the *de minimis* concentration and a pound/hour *de minimis* emission rate. Use of this approach results in a ratio of maximum off-site short-term concentration to emission rate of 314 (micrograms/$m^3$)/(lb/hr) or 0.314 (milligrams/$m^3$)/(lb/hr). This factor indicates that the prototypical facility which emits 1 pound of pollutant in an hour will have a maximum short-term concentration off-site which will equal to 0.314 milligrams/$m^3$.

The short-term concentration predictions made using the Tier 1 method are interpreted as 1-hour average concentrations, i.e., they account for the dilution due to the general meander of a dispersed plume over the course of a 1-hour period. Since the *de minimis* concentration values

relate to "peak" or very short-term exposure levels (maybe on the order of a few seconds), the EPA believes it would be desirable to derive peak concentration values from the 1-hour predictions. Data taken by the EPA indicate that the concentration levels during any few second time interval within the 1-hour period will not vary more than a factor of two. Therefore, for purposes of the examples described below, a "peak-to-mean" ratio of two was used, that is, the peak concentration is assumed to be twice that of the 1-hour average.

Using the value, [(0.314 milligrams/$m^3$)/(lb/hr)], coupled with the peak-to-mean ratio of two, the *de minimis* emission rate, $E_{dm}$, from the *de minimis* concentration level, $C_{dm}$, for each acutely toxic pollutant would be calculated as follows:

$$E_{dm}=[C_{dm}/(2)]/0.314$$

The following lists a number of examples illustrating the LOCs and the short-term *de minimis* emission rates that would result based upon this method. (Note: the value for ethylene oxide is derived from a short-term RfC of 0.3 parts per million, rather than an adjusted LOC). The EPA requests comment on whether the final rule should incorporate these values, and on other possible alternative methods that could be used to derive short-term *de minimis* emission rates.

(d) *de minimis* values for pollutants having multiple health concerns. Some HAP may produce a spectrum of health effects including both cancer and effects other than cancer, including acute health effects. The *de minimis* value for these pollutants was the lowest value calculated for the cancer and chronic noncancer health effects using the procedures described in paragraphs (a) and (b). A short-term pounds/hour *de minimis* emission rate, if developed, would, for some pollutants, appear in addition to the annual emission rate.

4. Proposed *de minimis* considerations for pollutants of concern under EPA's section 112(m) Great Waters program. The descriptor "GWP" in the table of *de minimis* values indicates that a value of 0.01 tons per year was a "Great Waters Pollutant" for which a special *de minimis* value was assigned as a policy decision. The EPA requests comment on this selected value and on several alternatives that were considered.

| CAS # | Pollutant | LOC ($mg/m^3$) | Short-term *de minimis* value (lbs/hr) |
|---|---|---|---|
| 107028 | Acrolein | 1.15 | 0.00183 |
| 7783702 | Antimony pentafluoride | 2.70 | 0.00430 |
| 1303282 | Arsenic pentoxide | 8.00 | 0.0127 |
| 1377533 | Arsenic oxide | 1.40 | 0.00223 |
| 7784421 | Arsine | 1.90 | 0.00302 |
| 94077 | Benzotrichloride | 0.700 | 0.00111 |
| 100447 | Benzyl chloride | 5.18 | 0.00824 |
| 57578 | beta-Propiolactone | 1.50 | 0.00239 |
| 1366190 | Cadmium oxide | 4.00 | 0.00637 |
| 7782505 | Chlorine | 7.25 | 0.0115 |
| 79118 | Chloroacetic acid | 1.80 | 0.00286 |
| 107302 | Chloromethyl methyl ether | 1.82 | 0.00290 |
| 10025737 | Chromic Chloride | 0.0500 | 0.0000795 |
| 10210681 | Cobalt carbonyl | 0.270 | 0.000430 |
| 77781 | Dimethyl sulfate | 5.00 | 0.00800 |
| 534521 | 4,6-Dinitro-0-cresol and salts | 0.500 | 0.000800 |
| 151564 | Ethyleneimine | 4.00 | 0.00636 |
| 75218 | Ethylene oxide[1] | 0.3ppm | ..... |
| 62207765 | Fluomine | 3.00 | 0.00477 |
| 77474 | Hexachlorocyclopentadiene | 0.0195 | 0.0000310 |
| 7664393 | Hydrogen fluoride | 1.64 | 0.00261 |
| 7783075 | Hydrogen selenide | 0.660 | 0.00105 |
| 12108133 | Methylcyclopentadienylmanganese | 0.600 | 0.000955 |
| 60344 | Methyl hydrazine | 0.940 | 0.00150 |
| 624839 | Methyl isocyanate | 4.70 | 0.00748 |
| 13463393 | Nickel carbonyl | 0.350 | 0.000557 |
| 56382 | Parathion | 2.00 | 0.00318 |
| 75445 | Phosgene | 0.800 | 0.00127 |
| 7723140 | Phosphorous | 3.00 | 0.00477 |
| 151508 | Potassium cyanide | 5.00 | 0.00796 |
| 143339 | Sodium cyanide | 5.00 | 0.00796 |
| 13410010 | Sodium selenate | 1.60 | 0.00255 |
| 10102188 | Sodium selenite | 2.30 | 0.00366 |
| 78002 | Tetraethyllead | 4.00 | 0.00637 |
| 75741 | Tetramethyllead | 4.00 | 0.00637 |
| 7550450 | Titanium tetrachloride | 1.00 | 0.00159 |
| 584849 | Toluene diisocyanate | 7.00 | 0.0111 |

[1] This is not a LOC but a short-term RFC for a 30-minute exposure and is in ppm rather than $mg/m^3$. The value in $mg/m^3$ is 0.54.

The EPA believes that *de minimis* values under section 112(g) can take into account a hazardous air pollutant's potential for causing non-air quality health and environmental impacts. For example, deposited pollutants which are persistent and bioaccumulate are of special concern to the living resources in the ecosystem into which they are deposited. The EPA is required by section 112(m) of the Act to investigate the potential for adverse impacts of

atmospheric deposition to the Great Lakes, Chesapeake Bay, Lake Champlain and Coastal Waters (collectively referred to as the "Great Waters." Interim results of these investigations indicate the following 13 HAP appear to be of the greatest concern: lead and lead compounds, polycyclic organic matter (POM), hexachlorobenzene, mercury, polychlorinated Biphenyls (PCBs), chlorinated dioxins, chlorinated furans, toxaphene, chlordane, DDE, D(lchloro)D(lphebyl)T(Richloroethane) (DDT), lindane, a-hexachlorcyclo-hexane, and cadmium. Ref: Swain et al., Exposure and Effects of Airborne Contamination for the Great Waters Program Report. December 22, 1992.

For these pollutants, the EPA does not believe that methods are currently available to quantify the relationship between emission rates and exposures for these pollutants. Accordingly, the EPA does not believe that a quantitative method for developing *de minimis* values yet exists. However, since these reports identify these specific pollutants as posing a potentially serious environmental risk, the EPA believes that it is appropriate to place greater emphasis by assigning relatively low *de minimis* values to these pollutants.

For the proposed rule, a "cap" of 0.01 tons per year was used. This value represents 10 percent of the lowest value assigned based upon chronic toxicity (i.e., 10 percent of the value assigned to pollutants with a composite score greater than 40). If the value based upon other considerations (described above) yielded a value greater than 0.01 tons per year, the 0.01 tons per cap was assigned. For example, for mercury compounds, the health-based and default criteria yielded values of 0.1, 0.6, and 5 tons per year, depending on the specific compound involved. For each of these mercury compounds, the proposed rule lowers the value by assigning the 0.01 tons per year "cap." On the other hand, the value for dioxin was already well below 0.01 tons per year, so the 0.01 tons per year "cap" was not the limiting consideration.

Other policy approaches were considered. One approach would be to select an alternative "cap" such as 0.1 tons per year. Another possible approach might be to lower the *de minimis* values to one-tenth that of the default or health-based values. The EPA requests comment on whether special consideration is needed to account for atmospheric deposition to water bodies, and on other alternatives that could be considered.

For POM, the EPA requests comment on the appropriate method for determining whether POM emissions exceed a *de minimis* amount. POM is a general term referring to a complex mixture of thousands of polycyclic aromatic compounds, including many diverse classes of hydrocarbons (e.g., polycyclic aromatic hydrocarbons or PAH), substituted aromatic hydrocarbons/e.g., nitrated PAH), and heterocyclic aromatic compounds (e.g., aza-arenes). Combustion sources using any of a variety of fuels are a major source of POM and routinely emit a large number of different POM compounds with the level and composition of POM emissions generally dependent on the extent of incomplete combustion. Important combustion sources of POM include diesel and gasoline engines, heaters, burners, and incinerators. Other sources include coke ovens, petroleum refineries, primary aluminum smelters, carbon black production, asphalt roofing manufacturing, hot asphalt processing plants, wood charcoal production, secondary lead smelting and ferroalloy production.

Because there is no widely accepted method for measuring or assessing risks from all POM emissions, the EPA is soliciting comment on a preferred approach for determining POM emissions for the purposes of today's proposed rule. Various approaches have been used in past studies wherein a single POM, such as benzo-a-pyrene (B(a)P), or the sum of representative or particularly toxic PAH species, have been used as surrogates for POM. [ref: Cancer Risk from Outdoor Exposure to Air Toxics, Volume II, EPA–450/1–90–004b; Roussel, et al., Atmospheric Polycylic Aromatic Hydrocarbons at a Point Source of Emissions, J. Air Waste Manag. Assoc. 42:1609–1613; Assessing Multiple Pollutant Multiple Source Cancer Risks from Urban Toxics, EPA–450/2–89–010.] Alternatively, the EPA's Office of Research and Development has been developing an approach using the extractable organic matter (EOM) content of particulate matter as an appropriate measure of complex POM mixtures. The EOM is believed to contain the PAH and substituted-PAH compounds that predict cancer risk better than any individual PAH or any sum of PAH species. [Lewtas, Environmental Health Perspective, 100: 211–218 (1993)]

All of these methods for estimating POM emissions in the context of this proposal contain some inherent advantages and disadvantages. Using B(a)P alone is not thought to represent adequately either the total mass of POM emissions or the related cancer risks. However, a reasonable data base exists for determining B(a)P emission from a wide variety of sources. Using a "sum-of-individual PAH species" approach, while perhaps better than using B(a)P alone, may still not represent adequately the cancer-related risks from some sources that emit significant levels of substituted-PAH compounds. However, a reasonably extensive, data base exists for speciated PAH emissions. Unfortunately, there is little consistency as to what particular PAH compounds have traditionally been measured (L&E for POM]) and moreover, the widely varying toxicities of various PAH compounds further complicates the determination of a single POM *de minimis* level based on the sum of PAH species. Regarding the use of EOM as a measure of POM, the EPA is evolving a data base of EOM emissions from a variety of sources and has evaluated the toxicity of a number of EOM mixtures (Lewtas). It may be possible to list differing toxicity-weighted *de minimis* emission rates for EOM for a number of combustion and industrial categories of sources. This approach may be the most consistent with evolving the EPA health evaluations of POM mixtures. This approach, however, would require applicants to calculate an expected EOM emission rate which would be compared to the *de minimis* value(s). Because test data for EOM may not be as widely available as for B(a)P, it may be more difficult for some applicants to make these calculations.

The EPA requests comment on this issue not only in terms of the section 112(g) program, but also in terms of the appropriate treatment of POM in other section 112 programs such as the urban area source effort under section 112(k) and the specific pollutant program under section 112(c)(6).

5. State Option for Case-by-Case Dispersion Calculations. The definition of *de minimis* in section 63.41 of the proposed rule allows a State the option of establishing *de minimis* values on a case-by-case basis. Such case-by-case values, established according to subparagraph (2) of the definition of *de minimis* in § 63.41 of the proposed rule, would supersede any *de minimis* values contained in the table in § 63.44 of the proposed rule. States wishing to use the option are required to obtain approval from the EPA at the time EPA reviews a submittal from the State for delegation of authority under section 112(l) of the Act for implementation of the section 112(g) program.

The EPA has developed draft guidelines for use in this delegation review process. These draft guidelines are contained in the docket to the proposed rule. The guidelines contain procedures for identifying air quality

benchmark concentrations and procedures for dispersion calculations for use in identifying case-by-case *de minimis* values. In no case would EPA approve a benchmark (e.g., risk-specific doses associated with one-per-million, RfCs) less stringent than the EPA's. State programs that use benchmarks at least as stringent as those contained in the guidelines would be approved.

Further, any case-by-case *de minimis* values developed pursuant to a delegated program may not exceed 10 tons per year. As stated previously, the EPA believes that a "cap" of 10 tons per year is suggested by the major source cutoff in section 112(a) of the Act.

6. Other Alternatives Considered. Other alternatives for setting *de minimis* values were considered. One suggested alternative would presume that the 10 tons per year major source cutoff is adequate for purposes of establishing *de minimis* values. The EPA believes that many pollutants on the list would present a substantial health concern at values considerably less than 10 tons per year (depending on exposure scenarios), and that use of the 10 tons per year criterion would not adequately provide for a level that could be considered "trivial."

A second alternative would calculate *de minimis* emission rates for each pollutant based upon a selected fraction of the major source cutoff. For example, under this approach the EPA might establish 1 percent or 10 percent of the 10 tons/yr major source cutoff as a *de minimis* value. The EPA favors the approach in the proposed rule, because it explicitly takes into account differences in toxicity.

The EPA also requests comment on whether the *de minimis* values listed in § 63.44 should be rounded to one significant figure, as is the case in the proposed rule, or "binned" into order-of-magnitude groupings (for example, assign values of 0.01, 0.1, 1, 10, etc.).

The EPA also requests comment on whether pollutants should be considered as less than *de minimis* if they are present in less than a specified concentration in a product or mixture. For example, for reporting to the toxic release inventory (TRI) required under section 313 of the Emergency Planning and Community Right to Know Act (EPCRA), chemicals do not need to be reported if they are present at concentrations less than 1 percent (0.1 percent for carcinogens). The proposed rule does not provide for such an exemption. The EPA is concerned that pollutants present as small percentages of the total emissions could be of substantial concern in evaluating whether a modification should be required to install emission controls. For example, pollutants such as dioxin and hexavalent chromium are hazardous at such small concentrations that emission increases present at quantities well below 0.1 percent in a stream may be of concern. In addition, the EPA believes that the 10 tons per year *de minimis* values for many commonly-used HAP will ensure that in most cases there will not be an unreasonable analytical burden on solvent mixtures. For such mixtures, in most cases the EPA believes that 10 tons per year will not involve undetectable quantities of the HAP. The EPA has, however, not collected data to confirm this judgment and comment is requested.

7. Pollutant Mixtures. For the proposed rule, pollutants are evaluated individually with respect to the *de minimis* values in § 63.44. For pollutant mixtures, the emission increase for each pollutant in the stream is compared individually to the *de minimis* value for that pollutant. There may be situations for which no one pollutant exceeds the *de minimis* rate, but several pollutants are approaching the *de minimis* rate. The EPA requests comment on an alternative that would create a *de minimis* "index" for which the contributions toward *de minimis* are treated as additive. The EPA believes that this alternative would increase the complexity of the program and would probably not greatly affect the scope of the program.

8. Updates to *De Minimis* Table. The EPA intends to provide periodic updates to the *de minimis* table contained in § 63.44. Such updates will be appropriate when the health data used as the basis for the tables are revised, or if new health studies become available for pollutants with "default" values in the table.

9. *De Minimis* Values for Radionuclides. One of the 189 listed HAP, for which *de minimis* values must be established, is "radionuclides." This grouping comprises a large number of different radionuclides. For today's proposed rule, the EPA relies on previous efforts to evaluate cancer risks from radionuclide exposures. The definition of *de minimis* for radionuclides is listed as paragraph 3 of the definition.

For radionuclides, the EPA believes that an effective dose equivalent of 0.3 millirem per year for a 7 year exposure period would result in a cancer risk consistent with the one-per-million criterion used for other nonthreshold pollutants on the HAP list. Accordingly, this 0.3 millirem level serves as the basis for a *de minimis* evaluation. Techniques for evaluating the level of radionuclide emissions that would result in a 0.3 millirem dose are contained in subpart B and I, and Appendix E of 40 CFR part 61. These techniques are available for a large number of individual radionuclides, including those that would be expected to be emitted by major sources of HAP subject to section 112(g) of the Act. The EPA requests comment on the proposed *de minimis* definition for radionuclides, including comment on the types of emitting sources that may exceed such *de minimis* values.

*F. Section 63.45. MACT Determinations*

As discussed previously, §§ 63.42 and 63.43 require permitting authorities to make MACT determinations for an owner or operator who constructs, reconstructs, or modifies a major source of HAP. This section of the preamble discusses the EPA's proposed procedures for making these MACT determinations. These procedures include technical review procedures needed to establish a MACT emission limitation and a corresponding MACT control technology, and, (where appropriate), administrative procedures for submitting and reviewing applications for MACT determinations. In the proposed rule, the overall process for MACT determinations is outlined in § 63.45. In addition to the proposed rule, EPA is making available for public comment a draft document entitled Guidelines for MACT Determinations under Section 112(g) (EPA–450/3–92–007b). This document contains more details on the procedures and examples illustrating how they could be implemented.

1. Overall Process for MACT Determinations. The overall process for MACT determinations contained in § 63.45 of the proposed rule is shown in Figure 7. The primary emphasis, for the MACT requirements in § 63.45 of the proposed rule and in the MACT guidelines, is on the procedures for case-by-case MACT determinations when no applicable MACT standard has been promulgated by the EPA. The procedures for determinations after MACT standards have been promulgated are more straightforward.

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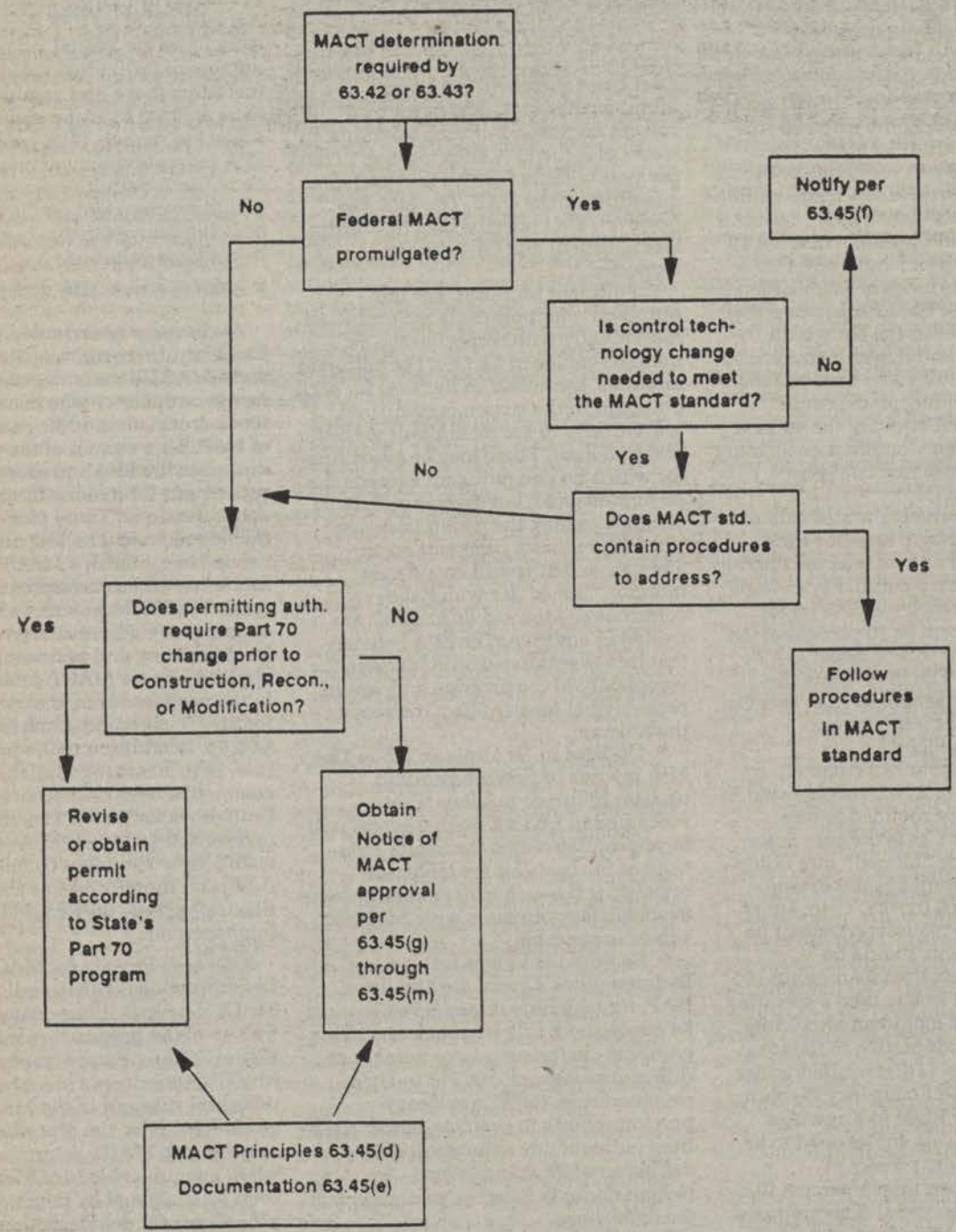
## Figure 7. Structure of Proposed Section 63.45

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When a MACT standard has been promulgated for a given category, section 112(g) does not require a case-by-case determination of a MACT emission limitation. Rather, section 112(g) requires that "the Administrator (or the State) determine" that a MACT emission limitation will be met. For existing equipment being modified, there may be some such modifications for which no change in control technology will be required to meet the MACT emission limitation, even though the emissions may increase above section 112(g) *de minimis* levels. For such modifications, the EPA believes that a notification to the permitting authority prior to operation should suffice for purposes of the "determination." For the proposed rule, such a notification is required before operation of the modified equipment. The EPA requests comment on whether this notification should be required prior to startup, for example, 30 or 60 days before startup. Requirements for what such a notification should contain are included as § 63.45(f) of the proposed rule.

In other cases where a MACT standard has been promulgated, the MACT standard itself will contain administrative procedures for modifications affecting the level of control. For example, in the proposed standard for synthetic organic chemical plants (57 FR 62608–62808, December 31, 1992), there are administrative procedures dictating the review when "Type 2" equipment (requiring a lesser degree of control) is modified to become "Type 1" equipment (requiring a greater degree of control). Where such administrative provisions exist in the standard, the EPA believes that such provisions would suffice for the "determination" requirements for any such changes that would be considered "modifications" under section 112(g).

Where no MACT standard has been promulgated, section 112(g) requires a case-by-case determination of the MACT emission limitation. The EPA believes that the "determination" could take two broad options: (1) A revision to a Part 70 permit, or (2) a "Notice of MACT Approval." These two options are described in § 63.45(c) of the proposed rule. Under either approach, the process for review would be conceptually similar.

The process begins with a MACT analysis by the owner and operator. This MACT analysis must be consistent with the Guidelines for MACT Determinations, including general principles described in paragraph 63.45(d). The owner or operator provides an application for a MACT determination to the permitting authority. Requirements for the contents of this application are listed in paragraph 63.45(e). (The EPA wishes to clarify that the requirement in § 63.45(e)(2)(vi) to list emission rates is intended as background information to enable the permitting authority to identify the pollutants requiring MACT controls. The EPA recognizes that there is often a significant effort required to obtain precise estimates of HAP emission rates and specifications. The EPA does not intend in this paragraph to require a greater level of detail than is necessary for evaluating applicability and emission control issues). This application for a MACT determination is then reviewed by the permitting authority according to either: (1) The administrative procedures outlined in 40 CFR part 70, where this option is selected, or (2) the administrative procedures described in paragraph 63.45(g). If approvable, the permitting authority would either: (1) Revise the Part 70 permit, or (2) issue a Notice of MACT Approval. In either case, the owner or operator would be required to comply with requirements described in paragraph 63.45(h). Provisions dealing with compliance with the requirements of the Notice of MACT Approval are described in paragraphs 63.45(j), (k), (l) and (m).

Where EPA determines that the MACT determination made by the permitting authority fails to meet any of the requirements of paragraph 63.45, EPA may take one of two actions to address the deficient MACT determination.

(a) Where the MACT determination is made part of a source's part 70 permit, EPA may veto issuance of the permit in accordance with the provisions of 40 CFR 70.8(c). The EPA may also use the veto process outlined in 40 CFR 70.8(c) where the State has "enhanced" its section 112(g) process to incorporate the part 70 procedures.

(b) Where the MACT determination is made through a Notice of MACT Approval before the source obtains or revises its part 70 permit, EPA may exercise the authority authorized under section 113(a)(5) of the Act to prohibit construction or modification, issue an administrative penalty order or bring a civil action against the source upon finding that the State has not acted in compliance with any requirement or prohibition relating to the construction of new sources or the modification of existing sources.

2. Requirement for Preconstruction Determination. Section 63.45 requires the MACT determination before construction, reconstruction or modification of the major source. The requirement is based upon the language in section 112(g)(2) (A) and (B) requiring that the Administrator (or the State) determine that MACT "will be met." The EPA believes that the future tense suggests an up-front determination.

Commentors to the EPA have suggested that the future tense does not suggest a preconstruction review. These comments assert that the phrase "unless" the Administrator (or the State) determines that MACT will be met does not impose the same requirement that would be imposed if the language were to read "until" the Administrator (or the State) determines that MACT will be met. Moreover, these commentors suggest that Congress intended to avoid preconstruction reviews for modifications, and that this is the reason for the language in section 112(g)(3) requiring "reasonable procedures" for assuring that modification requirements are reflected in the major source's operating permit. Although the EPA currently believes that a requirement for preconstruction review reflects the better reading of the Act, the EPA requests comment on the alternative suggested by these commentors.

Specifically, the EPA requests comment on an alternative approach that would incorporate a similar administrative process to the proposed rule, except that the review, and the associated terms and conditions, would have to be completed prior to commencement of operation, rather than construction. Under such an approach, the source owner would be allowed to construct at its own risk pending the outcome of the review. If the permitting authority during its review were to determine that the increase would fail to meet the control technology requirements of this rule, the source would be liable for violating the requirement to apply case-by-case MACT and would not be allowed to operate the equipment until MACT was installed. The risk of violating the MACT requirement would fall entirely on the source making the election to bypass the pre-approval process.

The EPA believes that the risk of such a retrofit would create an incentive for the source to ensure that the selected control technology in fact complies with the requirements of this rule. Moreover, sources may adopt an even greater level of control under this approach in order to ensure that its MACT demonstration complies with the requirements of this rule. Under this circumstance, it is possible that there could be greater emission reductions than would be legally required, as well as the economic

benefits of providing a process that allows source to avoid the delays associated with a pre-construction approval process.

The EPA believes that there are substantial implementation disadvantages for any program that would allow equipment to be constructed before a determination is made. The EPA's past experience in enforcing air quality regulations suggests strongly that it would be very difficult to require substantial changes in the design of equipment once it is in place. The EPA feels that fairness or equity arguments, based on investments already made and the costs of retrofit and shutdown, could be made by a source seeking to begin operation under these circumstances. Under the alternative approach described above, the EPA believes that such arguments are not valid. The EPA requests comment on the practical viability of preventing operation under this approach.

The EPA is sensitive to the concern that the program should not lead to unreasonable delays for small changes to equipment. The EPA believes that the treatment of "physical change" and "actual emissions" in § 63.43, and the provision for *de minimis* values, as well as the opportunity to offset emission increases, should ensure that very small changes in operations, particularly those changes within existing allowable operating scenarios do not require a review. In addition, § 63.45 contains streamlined administrative procedures which should ensure that the preconstruction review is completed quickly. The EPA recognizes that with a requirement for a "preconstruction" review there remains some ambiguity with respect to activities that are prohibited without a review. For some rules, the term "commence" construction is used. This term prohibits an owner from entering into binding contracts prior to the review. Alternatively, the term "begin actual construction" has been used to describe the actual on-site fabrication of equipment. For the proposed rule, language very similar to a "begin actual construction" definition is used. As proposed, the owner and operator must obtain the determination before they are allowed to "fabricate (on-site), erect, or install" regulated emission points. The EPA requests comment on this issue.

3. General Principles for MACT Determinations. Paragraph 63.45(d) reviews a number of general principles that would govern MACT determinations under the proposed rule. When a MACT standard has been promulgated, the control technology selected by the owner or operator must be capable of achieving the emission standards and requirements of the standard. When a MACT standard has not been promulgated, a case-by-case MACT determination is needed.

In general, the purpose of a case-by-case MACT determination is to develop technology-based limitations for HAP emissions that the Administrator (or a permitting agency to whom authority has been delegated) approves as equivalent to the emission limitations that would be required for the source category if promulgated MACT standards were in effect under section 112(d) or section 112(h) of the Act.

When no MACT standard has been promulgated, today's proposed rule requires a case-by-case determination by the permitting authority that the technology selected by the owner or operator is consistent with what would have been required under section 112(d) of the Act.

Section 112(d)(2) of the Act describes the general considerations for a MACT determination. A MACT level of control is "the maximum degree of reduction in emissions of the hazardous air pollutants that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new and existing sources in the category or subcategory * * *" This paragraph of the Act continues to describe a number of items that might be considered in designing MACT standards such as material substitutions, enclosure of processes, capture and control of emissions, design and work practice standards, and operational standards. In the proposed rule, this list of items is included in the definition of "control technology" in § 63.41 of the proposed rule.

Section 112(d) also imposes certain minimum requirements on the determination of "maximum achievable control technology." Collectively, these minimum requirements are defined in the proposed rule as the "MACT floor."

For constructed and reconstructed major sources, the MACT floor for a case-by-case MACT determination, consistent with section 112(d), is the level of control that is achieved in practice by the best controlled similar source. The definition of MACT floor for new source MACT in the proposed rule does not require consideration of sources outside the United States; the EPA requests comment on this issue.

For existing sources, the MACT floor for the case-by-case determination, consistent with section 112(d) of the Act, is an emission limitation equal to the average emission limitation achieved by the best performing 12 percent of existing sources for categories or subcategories with 30 or more sources, or the average emission limitation achieved by the best five sources for categories with fewer than 30 sources. The MACT floor for existing sources also takes into account sources achieving the "lowest achievable emission rate" as defined for the criteria pollutant new source review program under section 171 of the Act. The EPA interprets the "best performing 12 percent" to mean the best performing 12 percent of sources in the United States. The phrase "in the United States" is added to the existing source MACT floor definition in order to clarify that territories and possessions of the United States are included.

In rules currently under development, the EPA is considering two interpretations of the statutory language concerning the MACT floor for existing sources. One interpretation groups the words "average emission limitation achieved by" the best performing 12 percent. This interpretation places the emphasis on "average." It would correspond to first identifying the best performing 12 percent of the existing sources, then determining the average emission limitation achieved by these sources as a group. Another interpretation groups the words "average emission limitation" into a single phrase and asks what "average emission limitation" is "achieved by" all members of the best performing 12 percent. In this case, the "average emission limitation" might be interpreted as the average reduction across the HAP emitted by an emission point over time. Under this interpretation, the EPA would look at the average emission limits achieved by each of the best performing 12 percent of existing sources, and take the lowest. This interpretation would correspond to the level of control achieved by the source at the 88th percentile if all sources were ranked from the most controlled (100th percentile) to the least controlled (1st percentile).

The EPA is proposing to adopt the first interpretation and solicits comment on its interpretation of "the average emission limitation achieved by the best performing 12 percent of existing sources" (section 112(d)(3)(A) of the Act). The draft MACT Guidelines (EPA–450/3–92–007b), reflect the first interpretation. The EPA is also soliciting comment on these two interpretations in a separate **Federal Register** notice, which is a reopening of the comment period for the hazardous organic

national emission standard. Persons wanting to comment on this issue are asked to submit comments to docket A–90–19. However, comments specific to this issue as it relates to section 112(g) should be submitted to the section 112(g) docket.

The EPA recognizes that when information is available to define a MACT floor, the Act clearly requires that the case-by-case MACT determination must take that information into account. The EPA is working to develop data bases and other approaches which could facilitate transfer of information on available technologies and calculations of the MACT floor. In the proposed rule, § 63.45(c)(3) requires that the owner or operator must determine whether a MACT floor exists, based upon the available information. The MACT Guidelines (EPA–450/3–92–007b) contain several methods that could be used to provide the documentation for a MACT floor calculation. The EPA requests comment on the treatment of the MACT floor in the proposed rule.

A key element in the floor finding is to review the "available information." In some instances, such information sources are readily apparent. For example, if a Federal MACT standard has been proposed, but not yet promulgated, the EPA expects that a MACT floor determination will strongly consider that proposal. (Other information may be available in some cases, for example, based upon public comment on the MACT proposal, but such data would need to be adequate to refute the floor finding in the proposal). In other cases, the EPA will have generated background documents summarizing MACT floor findings which should be readily available.

In addition to these background documents, the EPA currently maintains a number of data bases that may be useful as a resource for information on available control technologies or to obtain data to calculate the MACT floor. These data bases include the National Air Toxics Information Clearinghouse (NATICH), the Best Available Control Technology/Lowest Achievable Emission Rate (BACT/LAER) Clearinghouse, and the Aerometric Information Retrieval System (AIRS)/ AIRS Facility Subsystem (AFL). These data systems are included within the definition of "available information" as sources of data to explore in determining whether a MACT floor exists.

The EPA is also designing a data management system to support case-by-case MACT determinations. The data base under development for this purpose is called the MACT data base. The EPA is intending to use AIRS/AFL for States to store and retrieve information in the data base. The EPA is making changes to AIRS/AFL for the MACT Data Base to better meet the needs of States, industry and other interested users in accordance with comments and input received over the last 18 months of its development. The EPA is developing guidance documents on how to use the MACT Data Base and how its correct use assists States in determining MACT on a case-by-case basis.

Under the current design plans, EPA will make information available on source categories currently under study for the development of MACT standards pursuant to section 112(d). States will be asked to submit source category-specific data to the data management system in accordance with a pre-determined schedule for the remaining source categories. This schedule will be coordinated with the Draft Schedule for the Promulgation of Emission Standards, (57 FR 44147). In addition to this data collection effort, EPA intends to require States to report all case-by-case MACT determinations that are made to the MACT Data base. This overall approach avoids repetitive data collection efforts, and provides States, industry and environmental groups access to information on section 112 major sources and pollutants in order to develop case-by-case MACT determinations that are consistent on a nationwide basis. The EPA requests comments on the design and use of this data base for case-by-case MACT determinations. In particular, EPA requests comments from users on whether other existing data bases, such as a modified BACT/LAER Information System (BLIS), might be a better repository for part or all of the information collected.

Several comments received indicated that both States and industry would favor the MACT Data Base as the sole source of available information for making a MACT floor finding, if a proposed standard and background information document are not available. The EPA is requesting comment on whether use of this data base alone would constitute a sufficient effort for making a MACT floor finding. While the EPA agrees that a centralized location for available information for MACT floor determinations is highly desirable, the EPA has some concerns with absolute reliance on such a system as the sole source of MACT floor information. First, it is likely that in some instances there may be readily available industry or EPA-supported studies which may provide useful information with respect to the application of given technologies. In addition, reliance on the data base may suggest the need for a mandatory reporting requirement that States submit source-category-specific information for certain source categories. The EPA requests comment, particularly from those supporting reliance on the MACT data base as the sole source of MACT floor information, on the feasibility and need for such a mandatory reporting requirement on the part of States.

The EPA requests comment on the cutoff date that should be incorporated into the definition of "available information." For the proposed rule, information is considered to be "available" if it is available as of the permitting authority's final determination, i.e., the date the permitting authority makes the final determination after receiving all comments. The EPA requests comment on other alternatives including: (1) The date of a complete application, (2) the date of a preliminary determination, and (3) the deadline for comments from the public and the EPA.

When a MACT floor exists based upon the "available information," the proposed rule requires that the control technology selected by the owner or operator achieve an equal or greater level of control than that MACT floor. The owner or operator should consider, in determining whether to select a control technology achieving a level of control greater than the floor, the cost, non-air quality health and environmental impacts and energy requirements of achieving that level of control. (See section 112(d)(2) of the Act.)

When a MACT floor cannot be determined, the proposed rule requires a maximum degree of reduction in emissions with consideration to the cost, non-air quality health and environmental impacts and energy requirements. The MACT Guidelines discuss procedures for establishing a case-by-case MACT emission limitation under these circumstances. These procedures are conceptually similar to the procedures for establishing BACT requirements under criteria pollutant permitting programs.

4. General Issues with Regard to the MACT Floor Determinations. For both "new source MACT" and "existing source MACT," there are general issues for which the EPA requests public comment. For "new source MACT" the EPA requests comment on the criteria for identifying the "best controlled similar source." For "existing source MACT," the EPA requests comment on

the degree of subcategorization which should be permitted in determining the level of control associated with the best performing 12 percent of sources.

For constructed and reconstructed major sources, section 112(g) of the Act requires an emission limitation consistent with a "new source MACT" level of control. The Act states, "the maximum degree of reduction that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as defined by the Administrator." The Act does not specifically define the term "best controlled similar source." In addition, unlike for existing sources for which the Act states, "the average emission limitation achieved by the best performing 12 percent of the existing sources * * * in the category or subcategory for categories or subcategories with 30 or more sources," the Act does not specifically indicate that the determination of the best controlled similar source should be limited to from within the source category.

For the purposes of section 112(g), EPA is proposing to use two criteria to determine if a source is similar: (1) Whether the two sources have similar emission types, and (2) whether the sources can be controlled with the same type of control technology. The EPA has developed a draft emission classification system to help determine emission types for case-by-case MACT determinations. When comparing emission types under this classification scheme, consideration should be given to the concentration and constituents of a gas stream. The five types within this draft system are: (1) Process vent or stack discharges, (2) equipment leaks, (3) evaporation and breathing losses, (4) transfer losses, and (5) operational losses. The draft guidance document MACT Determinations under Section 112(g) provides more detailed descriptions of each of these emission types. EPA request comments on the usefulness of this classification scheme in distinguishing similar sources.

The EPA believes that because the Act specifically indicates that existing source MACT should be determined from within the source category and does not make this distinction for new source MACT that Congress intends for transfer technologies to be considered when establishing the minimum criteria for new sources. EPA believes that the use of the word "similar" provides support for this interpretation. The EPA believes that Congress could have explicitly restricted the minimum level of control for new sources, but did not. The use of the term "best controlled similar source" rather than "best controlled source within the source category" suggests that the intent is to require a consideration of transfer technologies when appropriate.

The EPA believes that there will be cases when such technology transfers are entirely reasonable. For example, suppose that the best controlled tank within a source category did not have state-of-the-art controls. Yet, tanks from outside the source category storing similar organic liquids use state-of-the-art controls vented to an emission control device. EPA believes that such tanks are clearly "similar" within the language of Section 112(d). The EPA also believes that the Act does not compel such technology transfers in all cases, and that emission types and the ability to install such controls are strong factors in determining when sources should be considered similar. For example, within source category X, spray booths tend to be uncontrolled due to gas streams with low concentrations and relatively high airflows. The EPA does not believe that controls from another category should be considered in determining the best controlled similar source where emissions from spray booths are of high concentration and low airflow. The emissions from these sources are clearly not similar. However, if it is technologically feasible, these same controls could be considered in establishing the new source level of control if consideration is given to cost, non-air quality health and environmental impacts and energy requirements. The EPA requests comment on language that could serve to clarify the meaning of "similar" for cases involving technology transfer from other source categories.

A general problem that must be addressed, in determining the MACT "floor" for existing sources, is the identification of the universe of equipment that must be considered in establishing that floor. The list of source categories established in section 112(c)(1) of the Act (see 57 FR 31579) provides some guidance in this regard. The EPA believes, however that additional guidance may be needed regarding the degree of subcategorization of these categories that might be appropriate for case-by-case evaluations.

When the notice of initial list of categories of sources under section 112(c)(1) of the Act was published (57 FR 31576), the EPA listed broad categories of major and area sources rather than narrowly defined categories. The EPA chose to establish broad source categories at the time the source category list was developed because there was too little information to identify technically distinct groupings within these broad categories. During the standard-setting process, EPA may find it appropriate to further subcategorize to distinguish among classes, types and sizes of sources.

This lack of subcategorization may pose some difficulty to owners and operators, and to reviewing agencies, in establishing a case-by-case emission limitation. The source category list contains categories that will regulate more than one process type. Within these different processes different types of materials may be used or similar emission units may be used for different applications. In both instances, the emission potential of the emission unit may vary. For example, there are several different methods for applications of inks within the printing and publishing (surface coating) source category. One method may have an inherently lower potential to emit hazardous air pollutants, or it may not emit hazardous air pollutants at all. When the EPA develops a MACT standard for this industry, after gathering information on the source category, a decision will be needed on whether it is appropriate to: (1) Consider all process and emission units as one source when determining the MACT floor level of control or, (2) subcategorize the category in technically distinct groupings. The EPA believes that similar exercises may be needed in setting a "MACT floor" for case-by-case MACT determinations.

The EPA has discussed several possible approaches to dealing with subcategorization for the purposes of case-by-case MACT determinations. These discussions involved environmental interest groups, industry, and State agencies through meetings with the Clean Air Act Advisory Committee. Under the first approach, EPA would further subcategorize the source category list into subcategories for the purposes of case-by-case MACT determinations. While this option may provide for the greatest consistency in MACT determinations from all permitting authorities, this approach may not be feasible. As noted, the EPA lacked information to properly characterize each source category at the time the source category list was developed under section 112(c)(1). Doing so for implementation of section 112(g) would be expensive and time consuming.

Under a second option, EPA would allow the applicant to submit a suggested method for subcategorizing

the source category. The EPA would review the proposed subcategorization scheme. If the method is an acceptable method for the purposes of case-by-case MACT determinations, a notice would be issued in the **Federal Register**. This option has merit in that members of a source category would be given the opportunity to demonstrate, using their knowledge about the differences in emission units, that technically distinct subcategories exist within the category. On the other hand, having EPA issue a **Federal Register** notice may make this option too time consuming to be practical.

As a third option, the EPA could also delegate authority for subcategorization of categories to individual permitting authorities, and each permitting authority could address the problem on a case-by-case basis. This would allow permitting authorities the greatest flexibility in case-by-case MACT determinations. However, some permitting authorities have indicated that reviewing agencies may not have the resources to address this subcategorization issue. Also, this option would not promote nationwide uniformity in MACT determinations.

Finally, EPA could disallow subcategorization for the purposes of making a MACT floor finding for a case-by-case MACT determinations. This policy would be the easiest to establish and enforce. However, as discussed above, this could lead to inequitable MACT floor findings.

At this time, EPA is seeking additional comments on these or other approaches to dealing with subcategorization of categories for case-by-case MACT determinations. If subcategorization is allowed, EPA is also seeking comment on the criteria for which subcategorization would be allowed. Possible criteria might include technically distinct processes or operations (including differences between batch and continuous operation) fundamental differences in emission characteristics or control device applicability, cost differences, differences in safety considerations, and the appropriate consideration of opportunities for pollution prevention.

5. Application for a MACT Determination.

Paragraph 63.45(e) of the proposed rule describes the information the owner or operator is required to provide with an application for a MACT determination or in a part 70 application for which a MACT determination is requested. These information requirements are designed to identify the "MACT-affected emission units" and to demonstrate that the selected control technology for those units is consistent with or exceed the requirements of the statute. Further information on the uses of this information are described in the MACT Guidelines.

Paragraph 63.45(f) of the proposed rule describes the notification requirements for an application when a MACT standard for a MACT-affected emission unit has been promulgated. The requirements are much more straightforward for such cases, because the technical justification for a case-by-case determination is not required. This paragraph is designed to identify any possible situations for which the existing control technology in place may affect the ability of the emission unit to continue to comply with the promulgated standard.

6. Review Process. Analysis of the relationship of section 112(g) to the operating permits program. The proposed rule, in paragraphs 63.45(g),(h),(i) and (j) establishes an Administrative process for reviewing a request by an owner or operator for a MACT determination. As discussed previously, the EPA believes that section 112(g) of the Act requires such a determination to be made before constructing, reconstructing, or modifying a major source.

In order for commenters to understand the structure of the proposed § 63.45, it is necessary to discuss the EPA's reading of the Act regarding relationship of the MACT review process required by section 112(g) to the operating program requirements pursuant to title V of the Act. The requirements for State title V permit programs, contained in 40 CFR part 70, were published on July 21, 1992 (57 FR 32250). One approach to establishing an administrative process for determinations under section 112(g) of the Act would be to rely on the part 70 or part 71 review process as the sole mechanism for establishing MACT requirements. The EPA believes that, while in some cases this may be a viable approach, the section 112(g) program cannot rely solely upon this process. First, the part 70 requirements clearly do not require a new green-field plant to apply for an operating permit until 1 year after the plant begins operation. Because the part 70 permit must be issued within 18 months of the application, it could be up to 30 months after operation before section 112(g) requirements would be incorporated into the permit. The EPA believes that an alternative federally enforceable mechanism is needed in the interim for such cases. Second, even for modifications at already permitted facilities, the part 70 requirements do not ensure that a MACT determination will be conducted before construction. As noted above, the EPA believes that section 112(g) requires a determination be made before construction. While in some cases, States with part 70 programs may require preconstruction reviews as part of the operating permit process, this will not always be the case. Third, there is an important time period for section 112(g) implementation for which the title V permit process is not equipped to handle section 112(g) determinations. Section 112(g) determinations are required at the beginning of the title V permit program, upon the "effective date" of the program. According to part 70, sources subject to the permitting requirements are required to submit permit applications within 1 year of the effective date, and there is a 3-year period under which states can issue the initial permits. As a result, there is a potentially lengthy transition period under which the title V process is not designed to handle section 112(g) determinations.

The question of when a part 70 permit must be revised to reflect a case-by-case determination of MACT for a modification is presently the subject of some uncertainty. It has come to EPA's attention that certain provisions of the part 70 regulations can be interpreted as yielding conflicting results on this issue. In particular, § 70.5(a)(1)(ii), addressing the timeliness of applications, provides:

> Part 70 sources required to meet the requirements under section 112(g) of the Act, or to have a permit under the preconstruction review program approved into the applicable implementation plan under part C or D of title I of the Act, shall file a complete application to obtain the part 70 permit or permit revision within 12 months after commencing operation or on such earlier date as the permitting authority may establish. Where an existing part 70 permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.

This provision would allow a source required to obtain a section 112(g) case-by-case determination to apply for a part 70 permit revision up to 12 months after commencing operation of the modification, unless the change would conflict with the terms of an existing permit.

Section 70.4(b)(15), on the other hand, requires that title V program submissions must contain:

> provisions prohibiting sources from making, without a permit revision, changes that are not addressed or prohibited by the part 70 permit, if such changes are subject to any requirements under title IV of the Act or are

modifications under any provision of Title I of the Act.

This provision requires that an approvable State program must prohibit changes that are modifications under title I from taking place at a permitted facility without a prior permit revision. Because section 112(g) case-by-case determinations are modifications under title I, § 70.4(b)(15) could be read as prohibiting these changes from commencing operation prior to title V review, as authorized by § 70.5(a)(1)(ii).

The EPA believes that the approach set out in § 70.5(a)(1)(ii) should govern the incorporation of section 112(g) determinations into title V permits. Accordingly, the EPA is proposing in today's rulemaking to revise the part 70 regulations to more consistently reflect this approach. The proposed revision to § 70.4(b)(15) allows that section 112(g) case-by-case determinations, as well as modifications under part C and D of title I, need not submit a part 70 permit application until up to 12 months after commencing operation. For the reasons discussed below, EPA is proposing to retain the § 70.4(b)(15) prohibition that modifications under section 111 of the Act not be allowed to commence operation at a permitted facility until the permit is revised.

It is a key underlying principle of title V that changes that are not expressly prohibited by the permit may occur without a prior permit revision. These changes are referred to in the part 70 rule as "off-permit" changes. As stated in the preamble to the operating permits rule:

> The Agency continues to believe that section 502(a) allows certain facility changes at a permitted facility that need not be incorporated into the permit until renewal. Section 502(a) prohibits a source from operating any of certain listed types of sources "except in compliance with a permit * * *" EPA's view is that it does not violate this prohibition for a source to operate in ways that are neither addressed nor prohibited by the permit.
>
> 57 Fed. Reg. 32269.

The language of the section 502(a) prohibition does not suggest differential application for sources subject to review as title I modifications. To the contrary, section 502(a) expressly lists sources "required to have a permit under parts C or D of title I" as being subject to the prohibition not to operate except in compliance with a permit. Since section 502(a) is the underpinning for the off-permit authorization, this language provides a textual basis for concluding that title I modifications may occur without a prior title V permit revision.

The EPA believes it is reasonable to interpret section 502(a) such that title I modifications not addressed or prohibited by the permit can occur without prior review under title V. Changes triggering a title I modification by their nature merit a higher degree of review than other less significant source changes. However, in structuring the part 70 requirements for these types of changes, the EPA believes it is appropriate to consider not only the review requirements imposed by title V, but also those imposed under title I itself. The EPA regulations for modifications under parts C or D of title I already require a very substantial review of the proposed change prior to construction, involving public review and notice to EPA. This preconstruction review establishes the applicable requirements for that modification, and results in a Federally enforceable preconstruction permit incorporating the emissions limitations and other requirements resulting from that review.

One possible reading of title V would allow EPA discretion to require that title V review occur pre-operation for all title I modifications at a permitted source. However, in the case of part C or D title I modifications, pre-operation review may entail a needless expenditure of administrative resources. Once pre-construction review has occurred, there is little if any gain to be had from imposing further operational requirements prior to the source's commencing operation. If title V review is to result in more effective regulation of the source's operation, for instance by the addition of compliance requirements provided for in § 70.6, it may be more appropriate to conduct this review after a period of operation during which the effectiveness of the preconstruction permit requirements can be measured. The EPA believes this scheme of post-operation incorporation of the preconstruction permit requirements may yield a more rational integration of the title I and title V review requirements, and, depending on the characteristics of the particular State program, may result in additional improvements in air quality than a scheme which required the operating permit review to occur prior to operation. The EPA solicits comment on this issue.

The reasoning set forth above regarding title I modifications under part C and D applies with equal force in the context of section 112(g) modifications. As proposed here, changes qualifying as modifications under section 112(g) must undergo pre-construction review, including public and EPA review of the proposed case-by-case determination. As with modifications under part C and D of title I, this process should obviate the need for additional review prior to operation.

That this treatment of section 112(g) modifications is consistent with the intent of the Act is also evidenced by the language of section 112(g)(3), which requires EPA (or the State) to establish "reasonable procedures for assuring that the requirements for applying to modifications under this section are reflected in the permit." The requirement that these determinations be merely "reflected" in the permit suggests that Congress viewed pre-operation title V review as unnecessary. The legislative history supports this interpretation of section 112(g)(3). 136 Cong. Rec. S 17124–5 (October 26, 1990).

As noted above, EPA believes this treatment of title I major modifications is consistent with the general structure of the Act and the purpose of title V to function as an operating permits program. The EPA has therefore reconsidered the policy position taken in the preamble to the operating permits rule, where it stated that "it is not reasonable to allow [title I] modifications to be made outside the title V permit system" 57 FR 32269.

The EPA has also reconsidered the legal rationale stated in the same preamble discussion. The preamble stated that, because section 502(b)(10) explicitly excludes title I major modifications from the class of changes that can be made without a permit revision, it would be anomalous to read section 502(a) as authorizing this same flexibility. As a textual matter, however, EPA has read section 502(b)(10) to allow certain changes that contravene existing permit terms. It is not anomalous to strictly limit changes which contravene an express determination by the permitting authority by, among other things, excluding title I modifications, while allowing title I modifications to occur off-permit where determinations made in the title V permit remained unaltered. Moreover, the fact that title I modifications have already been subject to examination in the pre-construction review process further supports the conclusion that this reading of the Act does not produce anomalous results.

Although this proposal would allow both title I modifications and other types of source changes not addressed or prohibited by the permit to occur without a prior permit revision, there is an important difference in the treatment of these categories of source changes. For source changes that are not title I modifications, § 70.4(b)(14) mandates that a State may not, except as a matter of State law, require off-permit activities to undergo title V review prior to

operation. Under § 70.5(a)(1)(ii), however, a State may require sources subject to the requirements of part C or D, or section 112(g) of title I to submit applications any time earlier than 12 months after commencing operation. This would allow a State, at its option, to require title V review to occur prior to operation, or even contemporaneously with the preconstruction review. The primary reason for this differential treatment is that it would allow a State to integrate its preconstruction and operating permit programs. The EPA recognizes that, depending on the particulars of a State's preconstruction and operating permits program, this approach to integration may be the most efficient from an air quality control and administrative standpoint.

The proposed revision to part 70 should not result in any State having to revise its operating permits program to gain approval under part 70. A State program that followed the alternative reading of § 70.4(b)(15) and required the part 70 permit to be revised prior to operation of a title I modification would be consistent with the requirements of § 70.5(a)(1)(ii), and thus would also be consistent with this proposed regulatory revision.

7. Implications. The EPA believes, based upon the above considerations, that there will be cases when the title V permit process will be used for section 112(g) reviews, and there will be cases when it will not be used and MACT determinations will be incorporated into the permit after commencement of operation. Section 63.45(c) of the proposed rule states that when the title V procedures are used, this process would be sufficient. When the title V process does not occur until after construction, reconstruction, or modification of a major source requiring a case-by-case MACT determination, the proposed rule requires that the owner or operator follow an administrative review process contained in paragraphs 63.45 (g), (h), (i), and (j). Where the change that is subject to section 112(g) review is addressed or prohibited by an existing title V permit, the change would of course need to be processed as a revision to the title V operating permit prior to commencing operation.

Regardless of the timing for incorporation of section 112(g) determinations into the operating permit, there are certain part 70 requirements that apply. The title V permit must be revised or issued according to procedures set forth in §§ 70.7 and 70.8. In addition, the permit must incorporate compliance provisions of § 70.6. If, during the EPA's review of the section 112(g) determination, it becomes apparent that the determination is not in compliance with the Act, then EPA must object to the issuance or revision of that permit.

These requirements are obviously satisfied either if part 70 requires revision to an existing title V permit prior to operation, or if the permitting authority otherwise requires incorporation into a title V permit as a step in the section 112(g) determination process. However, even where there is no formal incorporation into a title V permit prior to operation, subsequent title V review may effectively be avoided if the State's section 112(g) process is "enhanced" to include the required title V procedures, thereby allowing for later incorporation into the title V permit by administrative amendment.

Section 70.7(d) of the operating permits rule defines an "administrative amendment" to include a revision that "incorporates into the part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to those contained in §§ 70.7 and 70.8 of this part and compliance requirements substantially equivalent to those contained in § 70.6 of this part." This process of "enhancement" of preconstruction procedures was discussed in the preamble to the operating permits rule in the context of existing State new source review programs (see 57 FR 32289), but was not discussed in relation to section 112(g) because the procedures associated with section 112(g) determinations had not been articulated. However, the language of § 70.7(d)(v) would allow for use of administrative amendments for an enhanced section 112(g) process, and the EPA believes such use is clearly within the intent of that provision.

Enhancement of the section 112(g) process may be partial only, incorporating some elements of the required part 70 review or compliance provisions in the section 112(g) process itself, with the remaining elements occurring during the title V process. For instance public review of the section 112(g) determination that meets the requirements of § 70.7(h) need not be repeated at the time of incorporation into the title V permit. However, for the administrative amendment procedures to be available for determinations that have been through an enhanced process, the public, EPA and affected States must have had the opportunity to review all aspects of the section 112(g) determination, including any compliance provisions required under § 70.6. Thus, public review during the preconstruction section 112(g) process would not suffice for purposes of title V if the preconstruction process did not specify the application of compliance provisions substantially equivalent to those in § 70.6, including monitoring, reporting, record-keeping, and compliance certification.

Paragraph 63.45(f)(4) of the proposed rule clarifies that notification of the permitting authority is sufficient for modifications when no case-by-case review is needed because an applicable MACT standard has been promulgated and the MACT-affected emission unit does not require a change in control technology. When the modification requires a change in control technology in order to continue to comply with the MACT standard, the EPA believes that a preconstruction review is appropriate Readers should note that section 112(i)(1) of the Act requires a preconstruction review for major sources subject to new source MACT under a promulgated MACT standard.

8. Streamlined Administrative Process. Paragraphs 63.45 (g), (h), (i) and (j) of the proposed rule establish an administrative review process for case-by-case MACT determinations. This process, patterned after the existing administrative process for reviewing proposed equipment subject to emission standards under 40 CFR part 61, is displayed in Figures 8 and 9. The process begins with a 30-day completeness determination. Once a complete application is received, approval or an intent to disapprove the application is required. If an intent to disapprove is issued, the owner or operator is given the opportunity to provide further information. The proposed decision to either approve or disapprove the application is then subject to public review. This proposed rule would provide for public review through issuance of a notice containing all the relevant background information about the application and allowing 45 days for the public to comment on whether the application should or should not be granted. In order to expedite approval of noncontroversial case-by-case MACT determinations the proposed rule would allow such determinations to go final following the close of the comment period if no adverse comments have been received. If adverse comments are received, a final notice must be published either approving or disapproving the application and addressing the comments.

This proposal requiring public review prior to approval of case-by-case MACT

determinations is consistent with current EPA practice in other Clean Air Act programs where Federal enforceability is required. For example, 40 CFR 51.161 requires a 30 day public comment period for review of an agency's proposed approval or disapproval of a minor new source permit. Similarly, in a 1989 rulemaking EPA enumerated five criteria that must be met before a State issued operating permit can become Federally enforceable. One of those criteria is that the permit must be subject to public review before issuance. This criteria was described in the notice as being consistent with the EPA's current practice for construction permits codified at 40 CFR 51.161. (See 54 FR 27283 (June 28, 1989).

Thus, the EPA's current practice is to require public review of decisions required to be Federally enforceable. Without a compelling reason to deviate from this established practice the EPA must continue to follow it. As stated by the Supreme Court in *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Automobile Insurance Co. et al.*, 463 U.S. 27, 43 (1983), "an agency changing its course is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance." In this case there is an established practice of requiring public review as a prerequisite to federal enforceability. The EPA proposes to follow that practice in this case unless a compelling reason can be provided for either changing that practice or deviating from it in this case.

As discussed above, the EPA is proposing to require public review as a prerequisite to Federal enforceability of case-by-case MACT determinations. Comment is specifically requested concerning whether public review should be a prerequisite to Federal enforceability of case-by-case MACT determinations, and if it should not, what justification there would be for deviating from established practice by the EPA in this area.

The EPA recognizes that there are cases for which sources would prefer to minimize delays in the process; particularly for operations which change relatively frequently, and where the owner or operator is willing to control emissions from those changes with technologies that could be recognized as best available controls. The EPA is exploring suggestions that the general permit procedures, outlined in 40 CFR 70.6(d), be available for such situations. The general permit may have application for section 112(g) determinations where the permitting authority is able to make a presumptive determination of MACT for a given type of source. The general permit would have to set forth the controls required by part 70. Once the general Figure 8: Timeline for S. 112(g) Administrative Process—CBC MACT permit is issued, subsequent application of the MACT determination at a particular source would involve merely a determination that the source falls within the source category covered by the general permit. Sources in that category may then apply for authorization under the general permit as the modifications occur.

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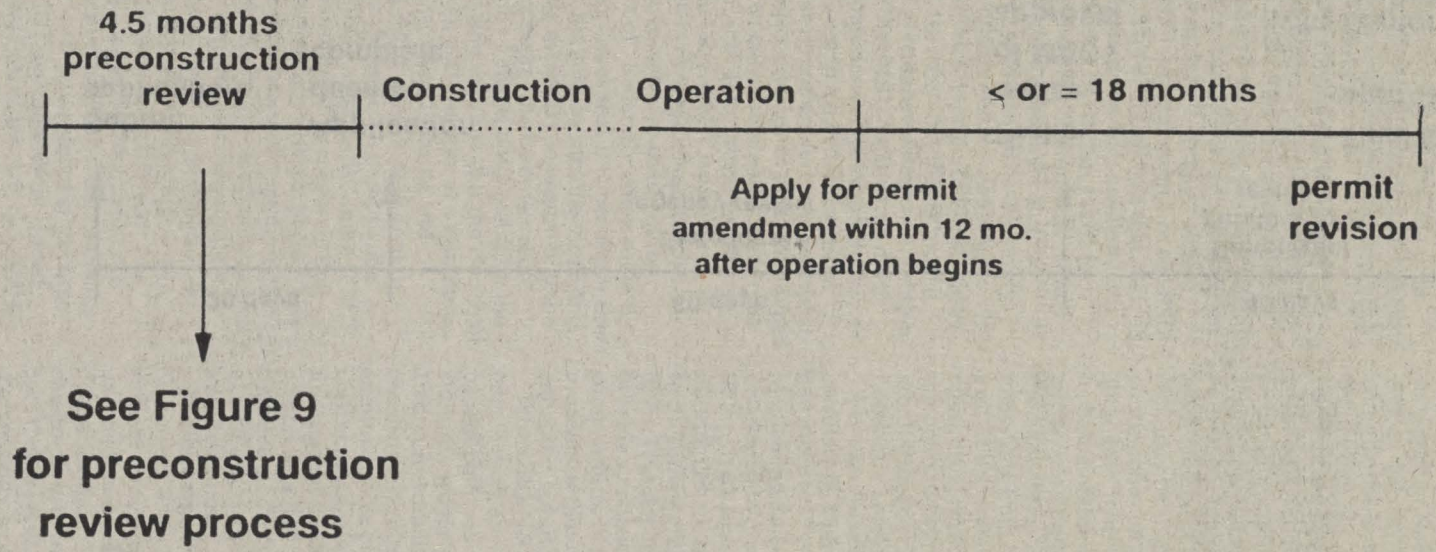
## Figure 8. Timeline for Section 112(g) Administrative Process - CBC MACT



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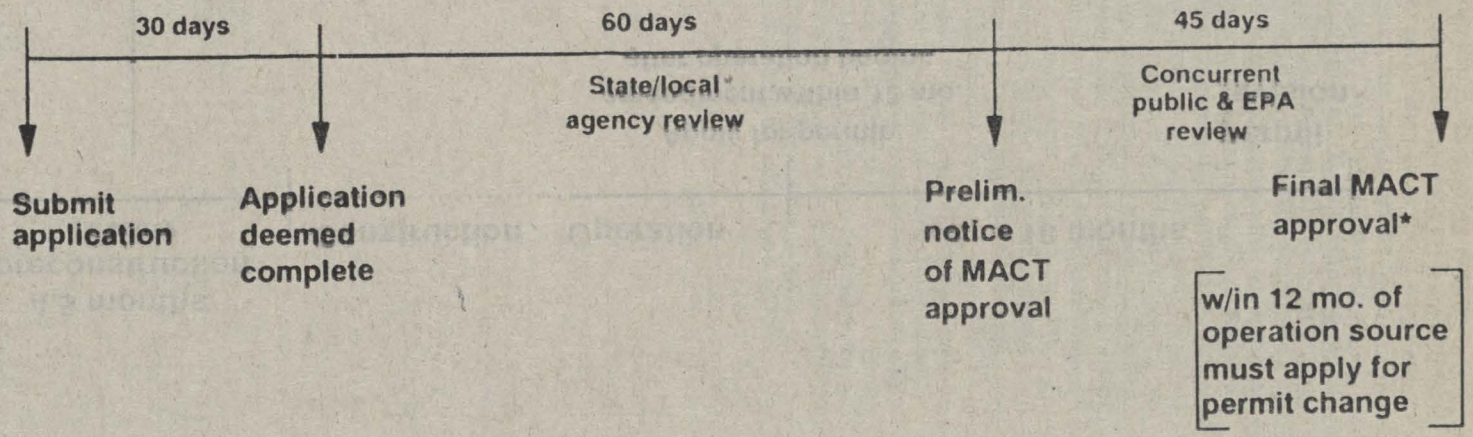
# Figure 9. Preconstruction Review Process - CBC MACT




* direct final if no comments
otherwise, State action within 30 days

As discussed in the preamble to the operating permit regulations, general permits may be issued to cover discrete emissions units at permitted facilities, 57 FR 32279. While a general permit cannot be used to modify the terms of an existing title V permit, it may be issued to any change at an existing plant that otherwise would be eligible to apply for a new individual permit. In that case, the requirements of the general permit could be incorporated into the permit for the facility at renewal.

The EPA also recognizes that some State programs may have well-established administrative procedures that are similar to, but not identical to the administrative process in § 63.45. For example, some States may require determinations in a slightly shorter or longer time period than the 60 day period in the proposed rule. The EPA believes that if such programs are substantially equivalent to the process in § 63.45, and include all steps needed to ensure Federal enforceability, then EPA could approve such alternatives in accordance with section 112(l) of the Act. The EPA requests comment on this point, which is included in the proposed rule as paragraph 63.45(g)(7).

9. Notice of MACT Approval. The end result of the proposed administrative review process is a determination set forth in a document that is termed a "Notice of MACT Approval." Requirements for this Notice are provided in paragraph 63.45(h) of the proposed rule. This Notice is required to contain the emission limitations, notification, operating and maintenance, performance testing, monitoring, reporting, record-keeping and any other requirements needed to ensure that the case-by-case MACT emission limitation will be met.

The Notice of MACT Approval serves to provide a mechanism for Federal enforceability of these conditions in the interim time period between initial operation of the constructed, reconstructed, or modified major source and the time the conditions are added to the part 70 or part 71 permit.

The EPA is considering adding a provision under which a Notice of MACT approval would expire if construction does not begin within a specified time frame. Specifically, the EPA requests comment on whether the Notice should expire if construction has not begun within 18 months. Such an 18 month period is included in criteria pollutant preconstruction review programs.

10. Compliance. The Notice of MACT Approval must establish compliance dates for MACT. For constructed and reconstructed major sources subject to a "new source MACT" level of control, compliance upon startup is required. For modifications, compliance upon startup is required unless the owner or operator demonstrates that the time needed to install the control technology exceeds the time needed to accomplish the modification.

The EPA considered two other compliance date requirements for modifications. The first alternative would require compliance upon startup in all cases, consistent with the current approach under other major source modification programs such as the PSD program. The EPA believes that such an approach would be inconsistent with the provisions in section 112(i) for promulgated MACT standards, which allow for up to 3 years for sources subject to these standards to comply. The second alternative would be to allow the full 3 year period in all cases. The EPA believes that this approach would also be inconsistent with section 112(i) in that MACT standards must ensure compliance "as expeditiously as practical, not to exceed three years."

Another important issue with respect to compliance is how to define the types of requirements that are needed for the Notice of MACT Approval in order to ensure that the MACT emission limitation is Federally enforceable. As noted above (see discussion of the definition of "Federally enforceable"), the EPA believes that it is necessary that emission limitations include terms and conditions necessary to ensure that the limitation is practically enforceable.

To ensure Federal enforceability, the proposed rule requires that the Notice of MACT approval contain, at a minimum, monitoring, recordkeeping and reporting requirements sufficient to document the source's compliance. Because major sources obtaining MACT determinations will incorporate that determination into a title V permit, the proposed rule includes a requirement that the monitoring, recordkeeping, and reporting requirements required for a case-by-case MACT determination be consistent with the compliance requirements contained in part 70.

In addition to part 70 compliance requirements, additional requirements may need to be considered at the time of the MACT determination. Under section 114(a)(3) of the Act, the EPA is required, for major sources, to incorporate enhanced monitoring into all new rules promulgated after the 1990 Act amendments. The goal of these monitoring requirements is to assure that owners or operators are accountable for their emissions and compliance status on a continuous basis. In this way, the EPA is assured that the emissions reductions intended by regulations are in fact achieved.

It is important to distinguish between continuous compliance and continuous monitoring. Under section 112 of the Act, to demonstrate continuous compliance, a source may not be required to record emissions data on a continuous, instantaneous basis such as with a continuous emission monitor. Depending on the type of standard, regular parameter monitoring, equipment inspections, and/or maintenance of raw material records, etc., may be sufficient to demonstrate continuous compliance. For all standards, monitoring frequency must be based on the averaging time of the applicable limitation or standard, and the likely variability of potential emissions from a particular emissions unit. If the potential variability is high, monitoring must be done frequently. If the potential variability is low, monitoring may be conducted less frequently at regular intervals.

For examples of enhanced monitoring, source owners or operators may refer to EPA's Enhanced Monitoring Reference Document being developed in conjunction with the 40 CFR part 64 regulation. For more information on this document, contact Keith Brown of the EPA at (703) 308–8676. This document is intended to provide a constantly evolving compendium of monitoring systems and procedures that can be used to satisfy enhanced monitoring requirements.

Where the Notice of MACT approval fails to meet any requirement of paragraph 63.45, EPA may exercise its authority under section 113(a)(5) of the 1990 Amendments to prohibit construction or modification, issue an administrative penalty order or bring a civil action against the source upon finding that the State has not acted in compliance with any requirement or prohibition relating to the construction of new sources or the modification of existing sources.

11. Reporting to National Data Base. Section 63.45(n) requires permitting authorities to provide EPA with information on all MACT determinations. The intent of this paragraph is to use EPA's MACT data base to store data on well-controlled sources and on previous MACT determinations to help facilitate the MACT determination process.

*G. Section 63.46 and 63.47—Offset Showing*

As mentioned previously in section III.D.4 of this preamble, section 112(g)(1)(A) of the Act requires owners

and operators to submit a "showing" to the permitting authority if they choose to provide offsets to avoid MACT requirements. Sections 63.46 and 63.47 of the proposed rule provide the requirements for the offset showing. These sections provide two alternative approaches an owner or operator could use.

1. Statutory Language. Section 112(g)(1)(A) of the Act states that a physical change otherwise meeting the definition of a "modification" in section 112(a) shall not be considered a modification if the emissions "will be offset by a decrease * * *" The EPA believes that the phrase "will be offset" can be interpreted in several ways. One interpretation would be that the offsetting decreases must occur no earlier than the corresponding increases in emissions. Alternatively, the phrase could be interpreted to mean that, by the time the physical change or change in the method of operation has occurred there must have been corresponding decreases in emissions. Such decreases could have occurred before the increases that they are offsetting. The EPA believes that the statute does not mandate choosing one reading over the other

2. Proposed Approaches. a. *Approach under the PSD program.* One overall approach to an offset demonstration would be to design the program to allow for a "contemporaneous" period similar to that in the PSD program.

The PSD program is a stationary source permitting program that was established in the 1970's in reaction to general language in the Act directing the EPA to ensure that air pollution regulations serve to protect and enhance air quality. The program was born as the result of a major court decision, and it has been formally included in the Act since 1977 as part C, section 160 through 169a. The goal of the PSD program is to ensure that, for major sources of pollutants contributing to increases in ambient levels of "criteria air pollutants" (particulate matter, sulfur dioxide, nitrogen oxides, volatile organic compounds, etc.), that emission increases from these sources do not "significantly degrade" nearby air quality.

One aspect of the PSD program, generally referred to as the "netting" procedure, is used to define which types of increases in emissions are subject to review. (For more information on PSD "netting," see New Source Review Workshop Manual. Prevention of Significant Deterioration and Non-attainment Area Permitting. Draft, October 1990. This document is available from the New Source Review section of EPA's Office of Air Quality Planning and Standards, Mail Drop 15, Research Triangle Park, NC 27711). The "netting" procedure involves the accounting of the overall plant-wide emission patterns for a given pollutant. For a given physical change, the "netting" process involves the following steps. First, the emissions increase from a given physical change are evaluated. If they exceed "significant" levels then they would constitute a modification. If, however, the emission increases from the change, when added to all other "net increases and decreases" at the plant, would not lead to a "significant" increase, then the physical change is not subject to the BACT and air quality impacts analysis requirements of the program.

Under the "netting" process, the owner and operator must account for all increases and decreases at the plant within the recent past. The PSD program uses the term "contemporaneous" to refer to a 5-year time period for which the net increases and decreases must be tallied.

One approach to the treatment of "offsets" for the section 112(g) program would view the emission "offsets" under the program as analogous to the "netting credits" for the PSD program. As such, the program would contain a similar accounting system and would require establishment of a "contemporaneous" period. Under this approach, the overall goal would be to ensure that the overall hazard of plant-wide emissions is not increased in the interim period between the onset of the title V program (which triggers section 112(g) requirements) and the issuance of MACT standards.

The EPA has a number of concerns with this approach. First, the approach presumes that a reference condition exists that can be defined as acceptable. For example, the PSD program is intended to preserve air quality levels that are considered acceptable. So long as overall emissions do not increase, then this acceptable air quality is not "degraded." For purposes of section 112(g), use of the contemporaneous period would presume, in essence, that a reference point in time at the beginning of the contemporaneous period constitutes a condition of "acceptable" hazardous air pollutant emissions. In light of the general intent of section 112 to provide for steady reductions in hazardous air pollutant emissions, the EPA is uncertain whether this approach is reasonable for offsetting in accordance with section 112(g).

Another problem with the contemporaneous approach is that it imposes an additional administrative burden. Owners and operators would be required to document all increases and decreases over the contemporaneous period. For large and complex facilities, this might involve considerable documentation and recordkeeping. In addition, it may be more difficult to provide adequate documentation of hazardous air pollutant increases and decreases than it has been for pollutants addressed in the criteria pollutant program such as VOC and sulfur dioxide. While total VOC emissions may be adequately documented, it may be more difficult to provide for reliable estimates of the emission rates of individual HAP, for which a reliable accounting of speciated VOC totals or speciated particulate matter totals may not be available.

b. *Prospective Approach.* Another approach to offset demonstrations was considered. Under this approach, the demonstration would not require an accounting of all recent increases and decreases. The offset demonstration, under this approach, would involve only prospective reductions and would require accounting of: (1) Increases from the emission points for the proposed change and (2) decreases from one emission point, or a few emission points which could achieve "extra" reductions that would were not otherwise required.

This approach would make it less likely that emission reductions used as offsets would represent "windfalls" from emission reduction activities that would likely have occurred even in the absence of the MACT requirement. As a result, this approach would likely increase the number of modifications under the program, increase the number of MACT determinations, and possibly lead to greater overall emission reductions.

This approach, however, does have potentially serious disadvantages. If offsetting reductions occurring before the increase were absolutely prohibited, then owners and operators would be discouraged from providing early reductions in HAP emissions or from completing pollution prevention projects. Where feasible, there would be an incentive to preserve emission reduction credits until the time of the increase.

c. *Proposed Approach.* In the proposed rule, the EPA allows for both types of offset demonstrations. The owner or operator of a modification who is seeking offsets would have the option of providing either type of demonstration.

Section 63.46 allows the owner and owner and operator to provide for a "contemporaneous" demonstration

resembling a "netting" demonstration under the PSD program. Section 63.47 allows for companies to opt for a more simplified demonstration in cases where additional control measures can be undertaken.

The contemporaneous offset procedure borrows a number of terms from the PSD program. The proposed rule retains the PSD definitions of what increases and decreases are "creditable." Emission decreases must be Federally enforceable prior to the change being offset. Emission changes that were taken into account in issuing another permit under the section 112(g) program cannot be "double-counted" in a subsequent permit action. In addition, emission reductions used for a MACT extension under the section 112(i)(5) program, which according to that program must be "permanent," are not creditable as emission decreases under the proposed rule. (The proposed rule does, however, note that any amount exceeding the 90 or 95 percent criteria in the section 112(i)(5) program are creditable.)

Section 63.47 provides for a "simplified" offset demonstration. Under this approach, as described in paragraph 63.47(b), only limited activities would be considered creditable as decreases. The control measure would need to constitute a new emission reduction that would be accomplished after the date of the application but before the startup of operation of the physical change being offset. The control measure could not be a shutdown or curtailment. Section 63.47 does, however, provide for special consideration for source reduction activities. The EPA believes that it is important to provide incentives for such activities. The EPA requests comment on this "simplified" offset approach, particularly the prohibition on the use of shutdowns or curtailments and the special consideration for source reduction activities.

The EPA requests comment on both of the approaches to offsetting (the "contemporaneous" and "simplified" approaches) including whether they are feasible alternatives, and whether one of these approaches ought not to be included in the rule.

3. Administrative Process for Offsets

Section 112(g)(1)(A) of the Act requires that the owner or operator seeking offsets in lieu of modification must submit a "showing" to the permitting authority that the increase "has been offset." Although this language is not entirely clear, the proposed rule represents the EPA's policy decision that the program should require review of the offset demonstration before the emission increase being offset commences operation. The EPA believes that this is the better approach because of a concern that the enforceability of the program would be adversely affected if the modifications could occur before an offset demonstration is approved.

In addition to the approach the EPA is proposing today, the EPA is considering an alternative mechanism for approving offsets. The EPA is considering this alternative approach because of concerns which have been expressed about the costs of delay which industries may experience as a result of the offset pre-approval process. Under the alternative approach, a source owner or operator would reduce emissions sufficient to offset the planned emission increase. The source would submit its offset demonstration to the permitting authority at the time it begins operation of the equipment causing the increase. The permitting authority would review the offset demonstration upon submittal—that is, after the equipment has begun operation. This review process could be structured according to the administrative process in the proposed rule, or an alternative process established by the permit authority. If the permitting authority during its review were to determine that the offset failed to meet the offset requirements of this rule, the source would be liable for violating the requirement to apply case-by-case MACT to the equipment causing the increase and would be subject to the full range of enforcement activities and penalties available under the Act. The risk of violating the MACT requirement would fall entirely on the source making the election to bypass the pre-approval process.

The EPA is mindful that this approach puts not only the source at risk, but potentially could result in greater (or more hazardous) emissions for the period during which the source operated without an appropriate offset. The EPA believes that the penalties faced by sources under the Act could create an incentive for the source to ensure that the offset in fact complies with the requirements of this rule. Moreover, the severity of the penalties under the Act are such that sources may adopt an even greater margin of safety under this approach in order to ensure that its offset demonstration complies with the requirements of this rule. Under this circumstance, it is possible that there could be greater emission reductions than would be legally required, as well as the economic benefits of providing a process that allows source to avoid the delays associated with a pre-operation approval process.

Consequently, the EPA believes that this approach deserves consideration and seeks comment on whether such an approach would provide a significant benefit to industry by reducing delays and whether it would be likely to create a risk to human health or would yield human health benefits. In addition, the EPA is interested in comments on whether this approach would create obstacles to enforcement, and the nature of those obstacles, by the federal or State governments or citizens should it be determined that the source's offset was inadequate. In weighing this option, the EPA also requests that commenters consider other provisions of the rule, including *de minimis* levels and applicable State and local review processes, that also affect the speed with which a source can proceed with construction when it intends to rely on an offset. In addition, the EPA is also interested in comments with specific examples on the extent to which alternative post-operation offset provisions might be appropriate in those cases where no additional new construction would be involved.

Sections 63.46 and 63.47 establish an administrative process for the offset demonstration. The processes are virtually identical. The process is very similar to the administrative process described above for MACT demonstrations under § 63.45. An overview of the process is displayed in Figure 10.

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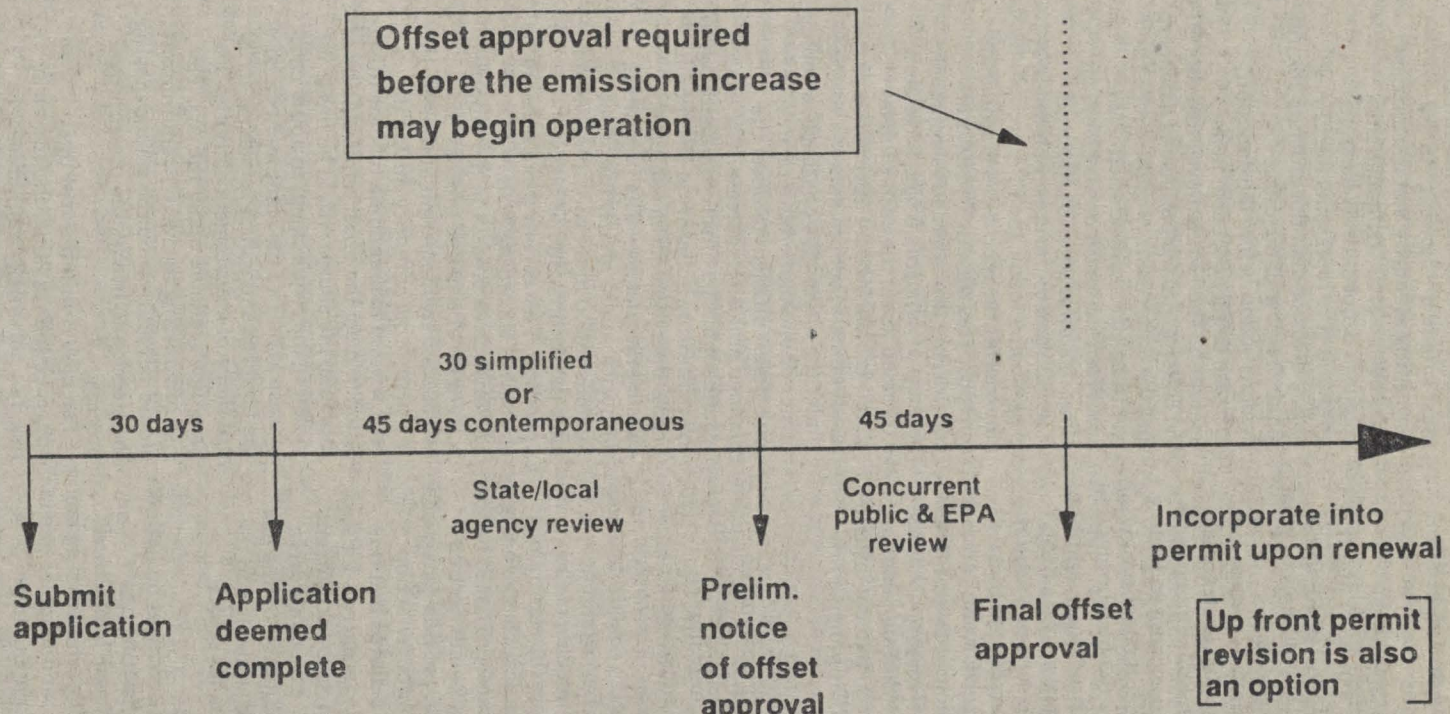
## Figure 10. Timeline for Section 112(g) Administrative Process - Offsets



The process begins with the submittal of an application containing the documentation of the emission increases and decreases. The contents of the application are described in paragraphs 63.46(d) and 63.47(c). The application must summarize and document each emission increase and decrease, and must document that the emissions meet the "more hazardous" requirement contained in § 63.48 of the proposed rule. (For more information on the "more hazardous" test, there is an extensive discussion in section IV of this preamble).

A streamlined administrative process for review of the application is provided in paragraphs 63.46 (e) and (f) and in paragraphs 63.47 (d) and (e). The permitting authority must review a "contemporaneous" demonstration within 45 days of receipt of a complete application, and must review a "simplified" demonstration with 30 days of receipt of a complete application. If approvable, the permitting authority issues a "Notice of Offset Approval." This Notice establishes emission limitations needed to ensure Federal enforceability of the offsets. The Notice is required to contain sufficient recordkeeping, monitoring and reporting requirements to demonstrate continuing compliance with Federally enforceable emission limits. Where EPA determines that the offset determination made by the permitting authority fails to meet any of the requirements of § 63.46 or § 63.47, EPA may take one of two actions to address the deficient offset determination: (1) Where offset determination is made as part of a source's part 70 permit, EPA may veto the issuance of the permit in accordance with the provisions of 40 CFR 70.8(c). The EPA may also use the veto process outlined in 40 CFR 70.8(c) where the State has "enhanced" its section 112(g) process to incorporate the part 70 procedures. (2) Where the offset determination is made through a Notice of Offset Approval before the source obtains or revises their part 70 permit, EPA may exercise the authority authorized under section 113(a)(5) of the Act to prohibit construction or modification, issue an administrative penalty order or bring a civil action against the source upon finding that the State has not acted in compliance with any requirement or prohibition relating to the construction of new sources or the modification of existing sources. The EPA requests comment on whether the offset determinations should be required to adhere to the compliance provisions in 40 CFR part 70, or any enhanced monitoring provisions pursuant to section 114 of the Act.

Unless and until a Notice of Offset Approval is issued, the physical change or change in the method of operation increasing emissions is considered a "modification." Operation of the change without a MACT demonstration or an offset approval would constitute noncompliance with section 112(g) of the Act. Because the "modification" requirements in § 63.43 prohibit the "fabrication (on site), erection, or installation" of the physical change or change in the method of operation unless MACT is established, the owner or operator will be out of compliance with § 63.43 if any offset demonstration is disapproved subsequent to such "construction" date. Accordingly, applicants are strongly encouraged to obtain offset approvals before construction of the physical change.

The EPA wishes to clarify with paragraphs 63.46(e)(8) and 63.47(d)(8) that the administrative process described in the proposed rule is not the only possible review process a permitting authority could use. Other administrative review processes would be acceptable if they ensure that the source provides federally enforceable emission reductions before operation of the increase being offset, and that those reductions have been approved by the permitting authority as meeting the emission quantity and offsetting restrictions outlined elsewhere in the proposed rule.

The EPA believes that the proposed procedures provide the opportunity for applicants to develop and document a continuing emission reduction program that can provide offsets for future activities. The EPA believes, in particular, that the proposed rule provides the opportunity for applicants to develop Federally enforceable source reduction programs which could serve to reduce emissions from a given production area while avoiding additional MACT requirements. The EPA requests comment on additional language that would serve to facilitate such programs.

H. Requirements for Emission Units Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

Emission units for which a case-by-case MACT determination is obtained in accordance with § 63.45 of the proposed rule will be subject to future MACT requirements. For some emission units, at a future date, the emission unit may be a "source" in a subsequently promulgated MACT standard pursuant to section 112(d) of the Act. Also, some units subject to case-by-case MACT under section 112(g) may be in existence upon the date for which an "equivalent emission limitation by permit" is required pursuant to section 112(j) of the Act.

Section 112(g) of the Act does not explicitly address how such an emission unit complying with a case-by-case MACT emission limit pursuant to section 112(g) should be treated under MACT standards or section 112(j).

The EPA believes that there are cases where it would be reasonable to give emission units additional time to comply with Federally promulgated MACT standards, and that there are additional cases where compliance with the MACT standard should not be delayed. For example, if the case-by-case MACT standard required installation of a costly emission control device (for example, a state-of-the-art electrostatic precipitator), and if the subsequently promulgated MACT standard necessitated use of a similarly costly, but different device (for example, a dry scrubber followed by a fabric filter), then additional time would appear reasonable. On the other hand, if the only difference between the case-by-case standard and the promulgated standard was the use of a readily available alternate raw material, then little or no relief would appear reasonable.

The EPA believes that section 112(j) provides a reasonable policy precedent for treatment of section 112(g) determinations relative to subsequent MACT standards. Accordingly, § 63.49 of the proposed rule requires that emission units comply with subsequent MACT standards "as expeditiously as practicable" but afford the owner or operator the opportunity to justify a delay of up to 8 years. Such an approach is consistent with the statutory scheme of section 112(j), which is analogous to section 112(g) in this area. It is also a reasonable approach developed by the EPA to fill gaps left by Congress in section 112(g).

The EPA considered expanding to § 63.49 to clarify the EPA's proposed reading of section 112(j) of the Act for situations where a case-by-case MACT determination is already in existence under section 112(g). The EPA believes that if "case-by-case MACT" has been established under section 112(g), then it is not necessary to revisit this determination under section 112(j) for the portion of the major source subject to section 112(g). The EPA believes that this position is already taken in the proposed rule implementing section 112(j) of the Act, in proposed § 63.52 and proposed § 63.54. In §§ 63.52 and 63.54, if an owner or operator already

has a permit requiring "compliance with a limit that would meet the requirements of section 112(j) of the Act," then the owner or operator is not subject to any substantive review process. The EPA believes that a permit requiring a MACT emission limitation pursuant to a section 112(g) requirement would be one that "meets the requirements of section 112(j) of the Act." Of course, where section 112(g) has required MACT to be applied to part of a major source, section 112(j) may require more extensive coverage. The EPA requests comment on this reading, and on whether explicit mention should be made of this reading in the section 112(g) regulation. In addition, comment is requested concerning whether a time limit should apply regarding whether compliance with a section 112(g) case-by-case MACT limit is sufficient to meet the requirements of section 112(j). For example, if an emission unit receives a permit containing a case-by-case limit under section 112(g) in 1994, but the section 112(j) hammer does not fall until 1999, should the unit retain its 1994 limit, or be required to update it?

Paragraph 63.49(c) addresses situations where a case-by-case MACT determination pursuant to section 112(g) is more stringent than a subsequently promulgated standard pursuant to section 112(d) of the Act. This paragraph clarifies that the permitting authority is not required to relax the emission limitation for such situations. However, the EPA also wishes to clarify that the permitting authority is not required by the proposed rule to maintain the more stringent case-by-case emission limitation, and that it has the option to relax the emission limit to the 112(d) standard. The EPA requests comment on whether, if the emission limitation is not relaxed to the level of the 112(d) standard, the facility should be allowed to use the additional reduction as a credit for offset or trading purposes.

## IV. Proposed Approach for Demonstrating That Offsets Are "More Hazardous" (§ 63.48). Summary and Rationale

The previous section of the preamble describes the overall requirements for the offset demonstrations pursuant to section 112(g)(1)(A) of the Act. One important aspect of these requirements is that the offsetting emission decreases must be deemed "more hazardous" than the emission increases. This section of the preamble describes the rationale for EPA's proposed approach for making such a "more hazardous" finding. The EPA requests comment on this approach. This discussion is supported by a technical background document which describes the rationale for the procedures in greater detail, and which provides documentation of the data used to evaluate the hazard of each listed HAP. (Draft Technical Background Document to Support Rulemaking Pursuant to the Clean Air Act section 112(g). Ranking of Pollutants with Respect to Hazard to Human Health, EPA 450/3–92–010).

### *A. Statutory Requirements for a "More Hazardous" Finding*

As discussed in previous sections of this preamble, section 112(g) provides the owner and operator the option of providing emission "offsets." If the owner or operator proposes to make a physical change or change in the method of operation of a major source that would constitute a "modification," the control technology requirements for modifications can be avoided if emission offsets are provided.

1. Offset Provision. Alternative Readings of "More Hazardous." The offset provision in section 112(g)(1)(A) of the Act reads as follows:

> A physical change in, or change in the method of operation of, a major source which results in a greater than de minimis increase in actual emissions of a hazardous air pollutant shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous, pursuant to guidance issued by the Administrator * * *

The EPA believes that this language is ambiguous, because it is not entirely clear whether "pollutant" or "quantity" is being modified by the phrase "which is deemed more hazardous." The EPA believes this language would support multiple interpretations.

Under one interpretation, each HAP increasing emissions above a de minimis level would require an offsetting decrease by another HAP which must be deemed "more hazardous." For example, if emissions of pollutant A increased by 10 tons per year, a reduction of 10 or more tons per year of pollutant B could be allowed as an offset if pollutant B is considered to be more hazardous than pollutant A.

Under an alternative interpretation, the increased emissions of each HAP would be required to be offset by a "quantity of emissions of another HAP" which is deemed more hazardous. Under this approach, if emissions of pollutant A were increased by 10 tons, pollutant B would not necessarily have to be a "more hazardous pollutant" so long as the decreased emissions from pollutant B represented a "more hazardous quantity." Consequently, under this interpretation, the requirement that offsets must decrease "hazard" may be satisfied either by decreasing an equal or greater quantity of a "more hazardous pollutant," or by decreasing a "more hazardous quantity" of another pollutant.

2. Requirement for Guidance. Section 63.48 of the proposed rule is intended to satisfy the requirement in section 112(g)(1)(B) of the Act that EPA publish guidance that includes a relative ranking of the pollutants according to their "hazard to human health." The statute reads as follows:

> The Administrator shall, after notice and opportunity for comment and not later than * * * [May 15, 1992] * * * publish guidance with respect to * * * [section 112(g) of the Act] * * * Such guidance shall include an identification, to the extent practicable, of the relative hazard to human health resulting from emissions to the ambient air of each of the pollutants * * * [listed as HAP under section 112(b) of the Act] * * * sufficient to facilitate the offset showing * * * Such guidance shall not authorize offsets between pollutants where the increased pollutant (or more than one pollutant in a stream of pollutants) causes adverse effects to human health for which no safety threshold for exposure can be determined unless there are corresponding decreases in such types of pollutant(s).

The EPA believes the phrase "to the extent practicable" indicates that Congress recognized the limitations and uncertainties in data and methodologies for evaluating relative hazard of the 189 listed HAP. This phrase gives the EPA discretion to identify pollutants or health effects for which a relative hazard ranking is "not practicable."

The EPA consulted an independent panel of scientific experts for input into the considerations that should be made in identifying the "practicable" limitations in methodologies and data for the relative hazard ranking. This panel of the EPA's SAB was apprised of the EPA's draft outline for hazard ranking in a public meeting held on October 28 and 29, 1991. The consultation meeting provided members of the SAB an opportunity to provide verbal feedback on several approaches. Summaries of a few of the comments by SAB panel members are included in this pollutant ranking discussion.

The EPA interprets the phrase "relative hazard to human health" to mean that only health effects relevant to humans should be considered in the ranking, and not other adverse effects to the environment such as to wildlife, aquatic life and other natural resources.

These latter effects are, however, addressed elsewhere in section 112 of the Act.

*B. Overview of the Issues Involved in Establishing Procedures for a "More Hazardous" Finding*

The requirement to identify the relative hazard of the 189 pollutants, and the requirement to provide guidance for determining whether any decrease in one of the pollutants is "more hazardous," both present a formidable challenge. Although air quality permit programs have, for years, allowed for emission offsets and "netting credits," none of these programs have ever allowed emission offsetting between different hazardous air pollutants. The task is made particularly difficult by the magnitude of the list (189 pollutants, 17 of these representing multi-pollutant groupings), the varying degrees of knowledge about the health effects caused by these chemicals, and the uncertainty in comparing the hazard potential of different health effects.

In developing an approach to the "more hazardous" finding, legal, policy, scientific, and practical judgments must be made. From a legal standpoint, the approach must be consistent with the statutory language. As discussed previously, the EPA believes that the statute would support alternative readings. From a scientific standpoint, the approach should be defensible to the scientific community and should be consistent with the EPA's overall goal of incorporating the best scientific information available for decision-making. (For further information on the role of science in EPA decision-making, see Safeguarding the Future: Credible Science, Credible Decisions. EPA/600–9–91–050. March 1992.) From a policy standpoint, any approach must: (1) Ensure that offsets are unlikely to increase the overall hazard to public health and (2) ensure consistency with the EPA's overall goal of providing regulated facility owners with the flexibility and incentives to seek emission reduction alternatives that are environmentally beneficial and cost-effective. From a practical standpoint, the approach must be implementable by applicants and by State and local permitting authorities and therefore must not be overly complex. In evaluating whether an emissions decrease is "more hazardous", the EPA believes that there is a tension between these overall objectives. The EPA requests public input as to whether the approach presented in the proposed rule strikes an appropriate balance.

Commentors on this proposed rule should note that in developing a pollutant ranking "to the extent practicable," that it was necessary to rely on current EPA methodologies and approaches. The EPA continues active efforts to review its approaches to assessing pollutant hazard. For example, the EPA is currently reviewing the implications of the recent NAS report entitled Science and Judgement in Risk Assessment, pending a detailed review, EPA may determine that changes to the section 112(g) hazard ranking are appropriate. In addition, section 112(f)(1) requires that the EPA issue a report, by November 5, 1996, on methods to calculate risk and section 112(o)(7) requires that EPA publish revised Cancer Risk Assessment that incorporates results of the NAS study, or explains why the EPA elected not to make changes. Finally, section 303(f) requires that the Risk Assessment and Management Commission issue a report by May 15, 1994, on risk assessment methods and risk management practices. All three of these allow opportunity for public comment. The EPA encourages the public to take advantage of opportunities, such as those described above, to provide input into its decision making process. For the proposed rule, the EPA encourages commentors to address the application of its current methodologies (e.g. Reportable Quantities Composite Score system for determinations of relative chronic toxicity) to the hazard ranking for section 112(g), rather than on fundamental issues with the approaches themselves.

The EPA realizes that no system of hazard ranking is going to be error free. Consequently, policy-based restrictions in this offset proposal that because of data limitation, etc., are intended to prohibit offsets that may increase hazard, may also restrict offsets which reduce hazard. The current proposal attempts to balance the concern with a potential increase in health hazards from offsets with the need for flexibility. That is, the proposal seeks to provide as wide a choice of offsetting possibilities from affected sources as is consistent with the need for a system which assures that the public health is protected, given the currently existing methodologies and data available from which to construct a hazard ranking system. The EPA requests comment on this approach and on specific changes that would increase the flexibility afforded by the offset program while assuring the protection of public health. The EPA also asks for comment on specific changes that would increase protection of public health while assuring that the program retains the flexibility necessary to an offset program. In either instance, changes suggested to the current approach should not increase the complexity of the system so as to render it too difficult to use or implement.

*C. The Establishment of Relative Hazard Between Categories of Pollutants*

Section 112(g) requires that the EPA distinguish pollutants for which "no safety threshold for exposure can be determined" from the listed pollutants for the purposes of offsetting. Consequently the pollutants must be, at a minimum, categorized as either "nonthreshold" or "threshold." The EPA proposes that a third category also be established for pollutants which may be of "high-concern" from either short term exposure (acute) or highly ranked for extremely severe chronic toxicity. Furthermore, the language in section 112(g) directs the EPA to relatively rank the hazardous air pollutants "to the extent practicable." Such language recognizes that it may not be possible to relatively rank some of the listed pollutants and thus a fourth category of pollutants is created in which "unrankable" pollutants are placed.

The first step in the relative ranking of the pollutants is to assign the pollutants to the four categories and to establish the relative hazard between these categories. The EPA's proposed approach to assign the pollutants to these categories and to relatively rank them is given below.

1. Criteria for Assignment of Each Pollutant to One of The Four Categories. Figure 11 illustrates the four categories of pollutants used in the hazard ranking. As a first step, pollutants were categorized as either "threshold" or "nonthreshold." As noted previously, the Act requires special consideration of "nonthreshold" pollutants.

The types of health effects considered to be "nonthreshold" and the sources of information for identifying pollutants causing such "nonthreshold" effects are discussed below. Pollutants which were not identified specifically as "nonthreshold" pollutants are categorized as "threshold" pollutants.

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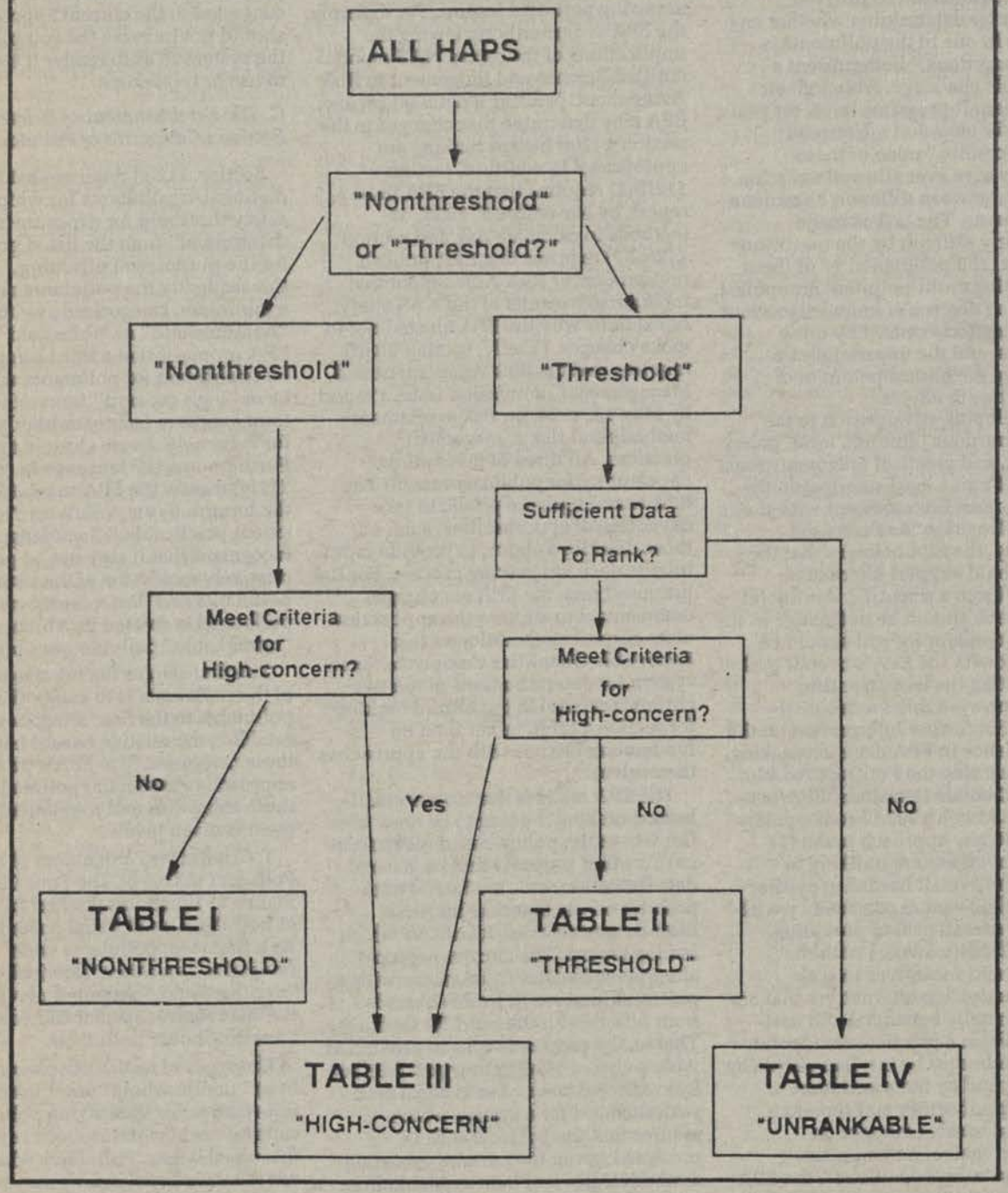
## Figure 11. Four Categories of HAPs.

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As a second step, the EPA created a list of pollutants called "high-concern" pollutants to be separated from the rest of the "threshold" and "nonthreshold" pollutants. This list is not explicitly required by the Act. The EPA believes, however, that pollutants whose primary concern is the potential for causing health effects from short-term exposures, and pollutants with very high toxicity from chronic exposures, require special consideration. The EPA requests comment on the creation of the "high-concern" category of pollutants. The data used for identifying these "high-concern" pollutants is discussed further below. "Nonthreshold" and "threshold" pollutants which meet the criteria as a "high-concern" pollutant are listed in Table III. Pollutants which do not meet such criteria remain in the original two categories. Pollutants which do not have "sufficient data" to be placed in either "nonthreshold," (Table I), "threshold," (Table II), or "high-concern" (Table III) categories are considered to be "unrankable" and are placed in Table IV. The criteria for "sufficient data" are discussed below.

2. Relative Hazard Between Categories. The determination of relative hazard between categories is described in Figure 12. Pollutants in the "nonthreshold" table (Table I) and the "high-concern" table (Table III) are considered to be "more hazardous" than pollutants in the "threshold" table (Table II) and decreases in these pollutants are available as offsets for increases in emissions of "threshold" pollutants. The EPA requests comment on these criteria.

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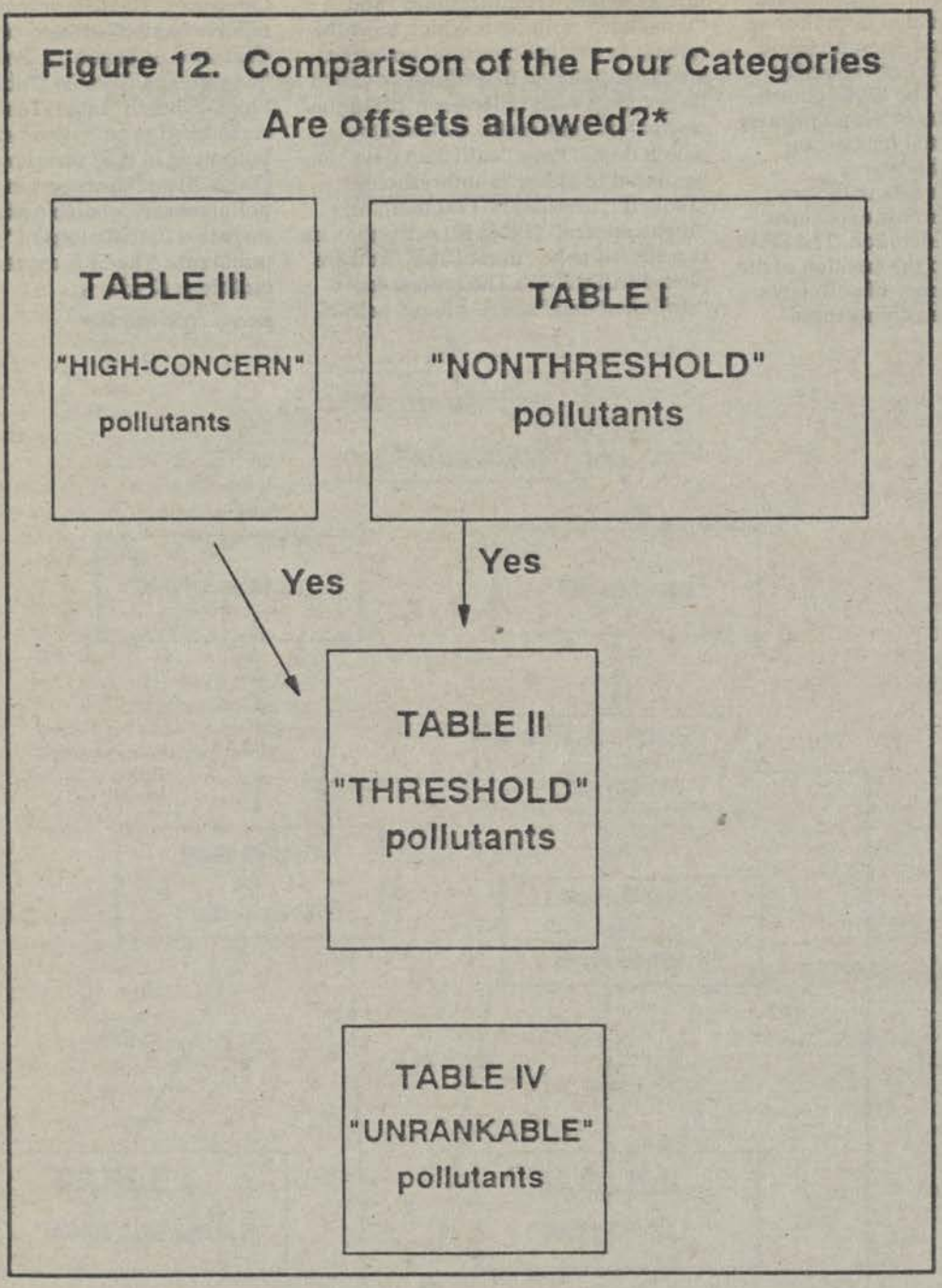


* This diagram illustrates pollutant comparisons BETWEEN categories. The proposed rule also includes an approach for comparisons WITHIN categories

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The EPA considers it "not practicable" to establish the relative hazard between the "high-concern" and "nonthreshold" categories of pollutants. Emissions of a pollutant in Table I cannot, therefore, be used to offset emission increases of a pollutant listed in Table III. Similarly, emission reductions of a pollutant in Table III cannot be used to offset increases in the emissions of a pollutant listed in Table I.

The EPA also believes it is "not practicable" to establish the relative hazard between those "unrankable" pollutants listed in Table IV and those pollutants belonging to the other three categories. As a result, emission reductions of pollutants in Table IV are not available as offsets for emission increases of any HAP. In addition, emission increases of pollutants in Table IV cannot be offset by decreases in emissions of any other HAP.

3. Types of Toxicity Data Used To Assign Hazard To Pollutants In Each Category. Basis For Hazard Ranking.

a. Identification of "Nonthreshold" Pollutants. Although the Act does not provide specific direction for identifying pollutants that have "no safety threshold of exposure," Senator Lautenberg's testimony (136 Cong. Rec. S 17124) suggests that Congress intended for the EPA, at a minimum, to include pollutants with evidence of carcinogenicity in this category. The EPA presumes for cancer that any exposure is associated with some risk. Therefore, the consideration of carcinogens as having, in the absence of adequate evidence to the contrary, "no safety threshold" for exposure is consistent with the EPA's "Guidelines for Carcinogen Risk Assessment" (in The Risk Assessment Guidelines of 1986, U.S. EPA/ORD/OHEA, EPA 600/8–87–045), the Office of Science and Technology Policy (50 FR 10372–10442, March 14, 1985), and the National Research Council (Risk Assessment in the Federal Government: Managing the Process. National Research Council. National Academy Press, Washington, DC, 1983).

For the proposed rule for section 112(g), the EPA identified carcinogens based upon weight of evidence classifications described in the EPA's "Guidelines for Carcinogen Risk Assessment." The proposed rule treats as "nonthreshold" pollutants, those pollutants with a weight of evidence classification under the guidelines of either A (Human Carcinogen), B (Probable Human Carcinogen), or C (Possible Human Carcinogen), or the equivalent thereof.[2] The EPA believes that inclusion of all three categories for the proposed rule is consistent with section 112(f) of the Act which requires the EPA to promulgate emission standards to protect health and environment from "known, probable, and possible" human carcinogens. In addition, the EPA identified several pollutants which have been classified by the International Agency for Research on Cancer (IARC), but which have not been formally reviewed by the EPA. These pollutants are categorized by IARC as Group 1 (agent carcinogenic to humans), Group 2A (probable human carcinogen), and Group 2B (possible human carcinogen). These pollutants are also treated as "nonthreshold" pollutants under the proposed rule.

The EPA will consider as "nonthreshold" pollutants, HAP with a weight of evidence of "known, probable, and possible" human carcinogens since in the absence of evidence to the contrary, hazard may be associated with any exposure level. Knowledge of the mechanism of action can raise questions regarding threshold assumptions (Thyroid Follicular Cell Carcinogenesis: Mechanistics and Science Policy Considerations, U. S. EPA, Office of Research and Development, Draft document December 1987 (edited 1988), EPA 265/3–88–014A). Currently there is no HAP for which the EPA has found such considerations to indicate convincingly for the entire weight of evidence so that the default assumptions are not applicable.

The EPA's cancer guidelines include two additional weight of evidence categories: D (Not Classifiable, because there is insufficient data) and E (Evidence of Non-carcinogenicity). The proposed rule considers pollutants in either of these categories to be "threshold" pollutants pending further information.

The EPA recognizes that there may be additional health endpoints besides cancer for which a "nonthreshold" assumption would be reasonable. At this time, the EPA has not identified any pollutants that would be added to the "no safety threshold" list based upon such nonthreshold noncancer effects. One class of pollutants, lead compounds, which has been suggested as having an increasing dose-response relationship at current exposure levels for neurobehavioral effects, (Letter from R.C. Loehr and A. Upton to William K. Reilly. Subject: Science Advisory Board's Review of the Draft Assessment Document "Review of the Carcinogenic Potential of Lead Associated with Oral Exposure." November 21, 1989) is also identified as a "nonthreshold" pollutant based on it being considered probably carcinogenic to humans (B2). Based on these noncancer concerns, lead compounds are treated as "high-concern" hazardous air pollutants. The EPA requests comment on this approach and on other chemicals and health endpoints which should be considered as "nonthreshold."

4. Data Base for Ranking Pollutants in Table I ("Nonthreshold" Pollutants). Because all of the "nonthreshold" pollutants in the proposed rule have associated carcinogenic effects, the assignment of relative hazard of such pollutants was based on current EPA procedures for describing the hazard of carcinogens.

Consistent with the EPA's current cancer guidelines, a description of carcinogenic hazard has two parts, a qualitative characterization (the weight of evidence that a substance causes cancer in humans) and a quantitative characterization (the assessment of the dose-response relationship). The EPA believes that both of these parts are important in the ranking of carcinogens for section 112(g).

a. *Weight of evidence.* For the qualitative characterization, the EPA uses the previously identified weight of evidence classifications. Group A chemicals, relatively few in number, are those for which there is sufficient human evidence of carcinogenicity, often from epidemiologic studies of occupational exposure. Group B chemicals, which are more numerous, include chemicals for which there is "sufficient" animal evidence, but for which there is limited (Group B1) or "inadequate" (Group B2) evidence in human studies. Group C chemicals are those with "limited" evidence in animal studies (which includes data from a single species, strain, or from an exposure route not directly relevant to humans), and "inadequate" evidence in human studies.

The EPA used the following hierarchy of data sources in characterizing the weight of evidence of chemicals in the proposed cancer ranking: (The references are listed in order of preference, and are discussed in further detail in the Technical Background Document)

i. Weight of evidence characterizations in the EPA's Integrated Risk Information System (IRIS).

[2] The EPA is in the process of revising its cancer guidelines. These classifications may change in any future revisions of the guidelines, and hence may impact the hazard ranking as outlined in this proposal. The current guidelines are contained in 51 FR 3392; September 24, 1986 and the EPA publication number is EPA/600/8–87/045.

ii. For pollutants not yet reviewed by the EPA's carcinogen risk assessment verification endeavor (CRAVE) work group, weight of evidence characterizations in documents prepared by the EPA's Office of Research and Development (ORD), including various health assessment documents and profiles, and including documents prepared for Evaluating Potential Carcinogens in Support of Reportable Quantities of pursuant to CERCLA section 102. In addition, sources other than ORD documents were used (for example, SAB comments for perchloroethylene and trichloroethylene).

iii. For pollutants which have not been reviewed by the EPA, characterizations by IARC were used.

b. *Dose-response.* The characterization of the dose-response relationship is useful for making inferences about response associated with a particular level of exposure and for making relative comparisons between chemicals based on potency. The dose associated with a 10 percent increase over background in cancer incidence (ED10) is chosen as the parameter for which to compare relative potencies across "nonthreshold" HAP for several reasons. First, the ED10 is considered to be within the experimental data; issues related to the shape of the dose-response curve beyond the observable range are not relevant. Second, the ED10 is a statistically stable estimate and is relatively insensitive to the choice of the dose-response model.

The EPA has used the ED10 as a hazard ranking tool for adjusting statutory Reportable Quantities under section 102 of CERCLA (Methodology for Evaluating Potential Carcinogenicity in Support of Reportable Quantity Adjustment Pursuant to CERCLA section 102, EPA/600/8–89/053, June 1988). In addition, the same data which supports an estimate of the unit risk (as identified in IRIS or another EPA document) support the estimate of the ED10. The EPA requests comments on the use of the ED10 for ranking hazard.

There are a number of chemicals identified as "nonthreshold" in Table I, that are not supported by data sufficient to develop a potency estimate. There are others for which the potency has not yet been evaluated by the EPA. Such pollutants are included in Table I but cannot be relatively ranked within the category. (A similar problem would exist if any "nonthreshold" pollutants were identified for effects other than cancer.) For EPA's proposed approach, this type of pollutant is generally considered to be more hazardous than the "threshold" pollutants listed in Table II. However, because no potency value (1/ED10) is available, such "nonthreshold" pollutants cannot be ranked among the other "nonthreshold" pollutants. Consequently, EPA's proposed approach for identifying a "more hazardous" decrease in emissions in the proposed rule does not allow them as offsets for or to be offset by "nonthreshold" pollutants having potency estimates. Similarly, pollutants without potency estimates are not allowed as offsets for each other.

The EPA requests comment on another option which is to assign default values to "nonthreshold" pollutants with no potency determination. Although such an option would provide a greater pool of pollutants available for offsets, the number of offsets that could potentially increase the human health hazard would also increase. Specifically, the EPA requests input on the default values that would be selected, and the data or policy assumptions that would be used to support such default values. The EPA also asks for comments on the use of structure-activity relationship analysis as one possible method for deriving quantitative potency estimates.

c. *Uncertainties.* Several uncertainties arise in developing a relative ranking of hazard. First, in the absence of human data, an assumption is made that human sensitivity may be as great as the most sensitive responding animal species. Exceptions to the assumption of human sensitivity may be expected, however. For example, recent research shows that the development of kidney tumors through proximal tubule damage, resulting from accumulation of alpha 2 micro-globin in hyaline droplets, appears specific for the male rat (U. S. EPA, 1991;Alpha 2 micro-Globin: Association with Chemically Induced Renal Toxicity and Neoplasia in the Male Rat, EPA/625–3–91/019F). For pollutants for which the primary concern is kidney tumors in the male rat, such tumors may have diminished relevance in evaluating the potential for human health effects. In this and in similar situations, humans may be qualitatively different than animals. In addition, it is assumed that the human response is quantitatively similar to the most sensitive animal species. That is, humans will have the same shape of the dose-response curve as animals. Differences in pharmacokinetics, metabolic, and pharmacodynamic processes that influence dose-response have only been addressed in a limited number of cases.

Third, in many cases, the ranking is based on data from the oral exposure route since inhalation data are absent. Questions exist regarding the applicability of these data to identify an inhalation hazard since first-pass and dose-rate effects may be important. When route extrapolations have been made (e.g., when inhalation risks in IRIS are based on oral data), in almost all cases, an assumption of 100 percent absorption from all exposure routes was used. Only in one case (bromoform) was a difference (an arbitrary judgment) in absorption via an inhalation exposure accounted for in the estimate of the ED10. Data are sparse in which to gauge the magnitude of error introduced into the ranking from the use of oral data. Pelpelko (1991; Effects of Exposure Route on Potency of Carcinogens. Regulatory Toxicology and Pharmacology 13:3–17), in a limited comparison, observed, for systemic tumors, differences less than an order of magnitude between oral and inhalation routes for doses associated with either a 1 percent or 25 percent additional risk of cancer. It can be asserted from this comparison, that for HAP's which engender systemic carcinogenic hazards with both oral and inhalation exposures, the absence of inhalation data most likely does not lead to a large misclassification of HAP's in a relative ranking. No insight may be gained for HAP's which engender an oral hazard, but no inhalation hazard, or HAP's which elicit portal-of-entry effects.

5. Types of Toxicity Data Used for Relative Ranking of "Threshold" Pollutants. Under the proposed rule, pollutants which are not listed in Tables I, II, or IV are considered to have "safety thresholds of exposure" and are subsequently labeled "threshold" pollutants.

a. *Data Base Selected for Use—Reportable Quantities Data Base.* Under section 104 of CERCLA, the EPA developed a chronic toxicity scoring system as one of the methods used under CERCLA in establishing reportable quantities. (*Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102. Volume 2. Report to EPA/ORD and EPA/OSWER. August 1986.*) This methodology explicitly takes both the dose and severity of effect into account, for chronic exposure, to determine the relative hazard of each pollutant. The hazard potential of each pollutant is determined by calculating a composite score (CS) which is the product of a dose rating ($RV_d$) and a severity of effect rating ($RV_e$). The $RV_d$ is based upon the human minimum effective dose (MED) for a given endpoint, often derived from animal data. A log-based algorithm in the

scoring system is used to translate the MED into an $RV_d$ value between 1 and 10. Effects which occur at a low MED are assigned a relatively high $RV_d$ value. The severity rating, $RV_e$, is a number between 1 and 10 which assigns a numerical score to the severity of a given health endpoint. The system used to assign the $RV_e$ values is included in this preamble as Table 1 as it appears in the technical support document for CERCLA section 102 volume 2. The resulting composite score, the product of the dose and severity ratings, is therefore a number between 1 and 100. Using this method, pollutants which elicit severe effects at relatively low doses are assigned a high composite score and those which produce relatively minor effects at high doses are given a low composite score.

There are a number of advantages to using the RQ approach as a relative ranking approach for "threshold" pollutants. Because the approach has been used by the EPA for a number of years in the RQ process, data are available for the majority of "threshold" pollutants on the HAP list (the section 112(b) list). Additionally, the EPA believes it is appropriate for the purposes of the proposed rule to consider severity of health effects in the ranking. The EPA recognizes in this proposal that the severity scores are somewhat subjective, but believes that this scoring system nonetheless represents the best available tool for relatively ranking the large number of HAP on the section 112(b) list.

The EPA used a number of data sources in evaluating the hazard of threshold pollutants. Three types of documents were available from EPA's Environmental Criteria and Assessment Office in the Office of Research and Development, including Reportable Quantity documents, Health and Environmental Effects Documents (HEEDs) and Health and Environmental Effects Profiles (HEEPs).

In addition to the above data sources, for which composite scores could be obtained directly, there were a number of additional pollutants for which composite scores could be calculated based upon information used to develop RfCs. Documentation of each composite score used in the "nonthreshold" pollutant ranking is contained in the Technical Support Document (EPA–450/3–02–010).

TABLE 1.—SEVERITY OF EFFECT RATING VALUES USED FOR DERIVATION OF THE COMPOSITE SCORE

| Rating (RVe) | Effect |
|---|---|
| 1 ..... | Enzyme induction or other biochemical change with no pathologic changes and no change in organ weights. |
| 2 ..... | Enzyme induction and subcellular proliferation or other changes in organelles but no other apparent effects. |
| 3 ..... | Hyperplasia, hypertrophy, or atrophy but no change in organ weights. |
| 4 ..... | Hyperplasia, hypertrophy, or atrophy with changes in organ weights. |
| 5 ..... | Reversible cellular changes: cloudy swelling, hydropic change or fatty changes. |
| 6 ..... | Necrosis, or metaplasia with no apparent decrement of organ function. Any neuropathy without apparent behavioral, sensory, or physiologic change. |
| 7 ..... | Necrosis, atrophy, hypertrophy, or metaplasia with a detectable decrement of organ functions. Any neuropathy with a measurable change in behavior, sensory, or physiologic activity. |
| 8 ..... | Necrosis, atrophy, hypertrophy, or metaplasia with definitive organ dysfunction. Any neuropathy with gross changes in behavior, sensory, or motor performance. Any decrease in reproductive capacity. Any evidence of fetotoxicity. |
| 9 ..... | Pronounced pathologic changes with severe organ dysfunction. Any neuropathy with loss of behavioral or motor control or loss of sensory ability. Reproductive dysfunction. Any teratogenic* effect with maternal toxicity. |
| 0 ..... | Death or pronounced life shortening. Any teratogenic effect without signs of maternal toxicity. |

*Because this table is taken directly from the guidance document for the development of Composite Scores, the term "teratogenic" appears here. The EPA now prefers to use the term "developmental" to refer to these effects.

b. Other alternatives considered for "threshold" pollutant ranking. Another approach considered by the EPA is to rank "threshold" pollutants using (RfCs and Oral Reference Doses (RfDs). The RfC is defined as an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily exposure to the human population (including sensitive subgroups) that is likely to be without appreciable risk of deleterious effects during a lifetime. The RfD is a similar type of estimate for oral exposures.

For purposes of the proposed rule, the EPA prefers the composite score of the RQ scoring system to an RfC/RfD system. If RfCs were available for more chemicals, the RfC may be an appropriate ranking tool for "threshold" pollutants. However, as of the time of this proposal, RfCs are available for only a relatively small number of the threshold pollutants on the section 112(b) list.

At this time, the EPA is reluctant to use RfDs, which are based on oral exposures, for ranking chemicals under a program for which inhalation exposures are the primary concern. Factors such as portal of entry effects (needed for metals, irritants, sensitizes) and liver first-pass effects limit the use of oral studies as meaningful indicators of toxicity from exposure by inhalation. The EPA requests comment on the relative merits of alternative approaches and their inherent uncertainties, and accompanying data sets in relatively ranking "threshold" pollutants and on chemical-specific information relevant to the hazard evaluation of each chemical.

Another approach to the ranking, suggested by members of EPA's SAB, would make use of an information matrix. Several members of the SAB expressed interest in having the EPA present more data about the pollutants than was represented by a single composite score for each pollutant. Rather than using one composite score to describe the endpoint of concern for a pollutant, it was suggested that, in essence, multiple scores be developed for the many effects a pollutant may elicit. Also, it was suggested that the "limiting effect" or effect of most concern for each pollutant be chosen from the matrix and that offsetting only be allowed between pollutants with the same endpoint of concern. Specifically, only pollutants with the same target organ and endpoint would be allowed as offsets. Selection criteria would have to be developed to determine the effect of most concern for each pollutant. If a pollutant was of concern for more than one endpoint, the classification of the pollutant and the offsetting restrictions that apply to each pollutant would have to be determined. This is further complicated due to the fact that few, if any, HAP have been tested on all organ systems.

The EPA considers this concept to be valid, but believes that the implementation of these suggestions would require more data on each pollutant than are currently available and would introduce another level of complexity for both sources and for the reviewing authorities. Also, the approach would greatly restrict the universe of pollutants available for offsets. The EPA invites comment on the information matrix approach suggested by SAB members for ranking threshold pollutants.

6. Criteria and rationale for identification of "high-concern" pollutants (Table III). The hazard ranking, which is used for determining a "more hazardous" decrease in emissions, categorizes pollutants as either "threshold" or "nonthreshold" in accordance with the requirements of the Act. A situation which must be addressed is the determination of a "more hazardous" decrease in emissions when the offsetting pollutant is a "nonthreshold" pollutant, but the pollutant being increased is a "threshold" pollutant.

a. *Statutory need.* As noted above, the language in section 112(g)(1)(B) of the Act specifically prohibits increases in emissions of pollutants having no "safety threshold for exposure" to be offset by decreases in "threshold" pollutants. However, the converse is not prohibited, and increases in emissions of "threshold" pollutants may be offset by decreases in "nonthreshold" pollutants if that decrease meets the "more hazardous" test. As stated previously, the "nonthreshold" pollutants are considered to be more hazardous than the "threshold" pollutants. However, because it may be impossible to determine the relative hazard between some "threshold" pollutants and certain "nonthreshold" pollutants, a problem exists in having only two categories of pollutants.

b. *Recommended approach.* The EPA recognizes the difficulty in evaluating pollutants for relative toxicity when there are two or more different types of effects (cancer and noncancer endpoints). Ultimately, in developing an approach to addressing this problem, there is no "scientific" solution, and policy judgements must be made. One possible approach would be to treat any "nonthreshold" pollutant as more hazardous than any of the "threshold" pollutants. While the EPA believes that this is appropriate in many cases, some weakly potent carcinogens on the "nonthreshold" list may represent a lesser human health hazard than certain highly toxic "threshold" pollutants. In order to begin to account for such cases, the proposed rule identifies a special category of pollutants which are referred to as "high-concern" pollutants.

The "high-concern" pollutants are listed in Table III of the proposed rule. Pollutants in this table are either: (1) Pollutants with composite scores above 20 (potent chronic toxicants), (2) pollutants whose primary toxicity is manifested from short exposures or peak releases at relatively low concentrations, or (3) pollutants for which concern from chronic toxicity may outweigh that of carcinogenicity (e.g., lead).

Threshold pollutants which are not identified as "high-concern pollutants" in Table III are deemed "threshold" pollutants and are listed in Table II.

The selection of the cutoff of 20 is a policy decision that is designed to be consistent with the approach taken for reportable quantities under CERCLA. For CERCLA, all carcinogens are assigned a reportable quantity of 100 pounds or less. For chronic noncancer effects, the CERCLA program assigns a reportable quantity of 100 pounds or less only to those pollutants with a composite score greater than 20.

The list of "high-concern" pollutants also includes a number of pollutants of concern for toxicity from short-term exposures. The EPA believes that toxicity from short-term exposures is not qualitatively or quantitatively comparable to carcinogenesis or chronic toxicity and therefore proposes that acutely toxic (and extremely potent) pollutants be identified and placed in the category of "high-concern" pollutants. For the proposed rule, the EPA has identified a number of pollutants of concern from short-term exposure using the "LOC" for "extremely hazardous substances" pursuant to section 302 of the SARA. Pollutants are treated as high concern from short-term exposure if the LOC value is less than 8.0 $mg/m^3$ or if an RFC exists for short-term exposure exists and is below the 8.0 $mg/m^3$ cutoff. The determination of this value is a policy decision based on the distribution of pollutants having LOC among the 189 HAP. Documentation of the LOC values for the HAP on the section 112(b) is provided in the draft technical background document (EPA 450/3–92–010). Although there are many caveats regarding the use of LOCs as a health safety benchmark or as "safe breathing levels," the EPA believes that their use for the proposed rule as a tool to identify acutely toxic pollutants avoids some of the drawbacks for their use.

The "high-concern" list in Table III includes a few carcinogens which are also of concern from short-term exposures. Where a LOC was available for a carcinogen, and that LOC is less than 8 milligrams per cubic meter, the carcinogen was placed in Table III instead of Table I, because of the implications for greater restrictions on offsetting.

The EPA believes that the LOC approach is a reasonable first step in identifying pollutants for which toxicity from short-term exposures would be of high concern. The LOC values are indicative of the relative concentrations at which the pollutants create an immediate danger of death or irreversible health effects. Although owners and operators of hazardous air pollutant sources regulated under section 112(g) are unlikely to propose emitting these "acutely" toxic substances at levels that would cause the LOC values to be exceeded, the EPA believes that these values can be used as a tool to identify pollutants of concern for toxicity from short-term exposures.

At the same time, the EPA recognizes that this is a very imperfect tool. The LOC values, which rank pollutants essentially by their relative ability to cause lethality, are probably an inadequate indicator of the relative likelihood that short-term exposures could cause effects such as neurological, developmental, and reproductive effects. The EPA requests comment on whether the "high-concern" category should be created, and on the policy decisions that were made in identifying the pollutants for this category. The EPA is particularly interested in comments concerning the merits of using Composite Scores and LOC values and the implications of its proposed cutoffs. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA asks for examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard. The EPA is attempting to identify other methods which could complement the LOC screening approach to identifying pollutants of concern for short-term exposures. The EPA requests comments on methodologies that could be used to address this specific issue.

7. Table IV. Unrankable pollutants. If a pollutant does not meet the criteria to be included as a "nonthreshold" pollutant in Table I, has insufficient chronic toxicity data for purposes of Table II, and does not meet the Table III criteria for a "high-concern" pollutant, then the EPA considers this pollutant as not "practicable" to rank at this time. As more information becomes available on such pollutants, the EPA will amend the hazard ranking to include the pollutants as is appropriate. Alternatively, a panel of experts may be convened by the EPA to rank such pollutants as necessary. The EPA asks for comment on how best to address these pollutants.

8. Treatment of chemical groups. There are 17 HAP listed under section 112(b) which are chemical groups having no unique chemical abstract service (CAS) numbers. These groups are as follows: antimony compounds, arsenic compounds (inorganic including arsine), beryllium compounds, cadmium compounds, chromium compounds, cobalt compounds, coke oven emissions, cyanide compounds, glycol ethers, lead compounds, manganese compounds, mercury compounds, fine mineral fibers, nickel compounds, polycyclic organic matter, radionuclides (including radon), and selenium compounds.

The pollutants within each chemical group do not always have homogeneous toxicological profiles. In some instances, the EPA believes it is reasonable to assume that all chemical species within a group are equally toxic. However, in order to provide a hazard ranking that meets the "extent practicable" test, the EPA believes that it is sometimes necessary to identify appropriate subgroupings or, in some cases, individual pollutants within these 17 broad classes with distinct toxicological properties.

One frequently used approach for chemical groups is to treat the group as a class according to most toxic pollutant or subgrouping within the class. Unlike other programs for which such an approach is health-protective, for the section 112(g) program this would not necessarily be the case. For example, if a group of chemicals was proposed as offsets based upon the most toxic chemical in the group, and if the pollutant actually being reduced was the least toxic chemical in the group, then an improper hazard comparison would result and an increased risk to the public would be allowed.

As a starting point in identifying appropriate subgroupings, EPA staff identified the chemicals and chemical classes within the 17 groups for which reportable quantities have been established under CERCLA. This served to identify the chemicals within the groups for which ED10s and composite scores were available, and therefore could be included within the ranking. The information supporting currently available RQ was complemented with some more recent information (for example, for cresols and for several glycol ether compounds). In some cases, hazard is inferred for a chemical class (e.g. inorganic arsenic compounds). In other cases, available data indicated a significantly different hazard potential (e.g., beryllium salts vs. other beryllium compounds). The rationale and documentation concerning the treatment of the 17 chemical groups is presented in the draft technical support document (EPA 450/3–92–010). The EPA requests public comment on the selection of the pollutants and subgroupings that were included in hazard ranking, and on the methodology for ranking them.

### *D. The Determination of Relative Hazard Within Categories of Pollutants*

#### Requirements of the Proposed Rule

Having established the four categories of pollutants and the relative hazard between them, the next step is to assess the relative hazard of pollutants within each category. The proposed rule contains methods to define a "more hazardous" and "equally hazardous" pollutant within the categories.

#### 1. "Nonthreshold" Pollutant Increases

*Paragraph 63.48(a). a. Approach in Proposed Rule. As discussed above, all of the "nonthreshold" pollutants are included in Table I based upon their potential to cause cancer. For comparing the relative hazard of two "nonthreshold" pollutants, Table I lists both quantitative hazard information and weight of evidence information. This information is used in determining whether one "nonthreshold" pollutant is "more hazardous" than another. In order for a carcinogen to be deemed "more hazardous," three conditions must be satisfied.*

First, the pollutant being decreased must be another pollutant in Table I. As discussed above, section 112(g)(1)(B) does not allow decreases in "threshold pollutants" as offsets for increases in "nonthreshold" pollutants."

Second, the pollutant must have an equal or greater weight-of-evidence classification. Pollutants with a weight of evidence of "A" or "B" according to the EPA's Guidelines for Carcinogen Risk Assessment (U.S. EPA, 1986) are determined to be "more hazardous" than pollutants with a weight of evidence of "C" (possibly carcinogenic to humans). For the purposes of the proposed rule, chemicals categorized as having weight of evidence of "Group A" or "Group B" are treated as having greater hazard than a weight of evidence of "Group C." The EPA feels that the evidence of carcinogenicity in either animals or humans which is defined as "sufficient" under EPA's cancer guidelines (U.S. EPA, 1986) provides a compelling case for a greater hazard concern than evidence defined as less than "sufficient", i.e., "limited" evidence in animals.

Third, the "more hazardous" pollutant must have a potency (1/ED10) value, listed in Table I of the proposed rule, which is greater than the "less hazardous" pollutant by at least a factor of 3. Any given potency value is uncertain and the EPA proposes, as a policy decision, that this uncertainty spans approximately one order of magnitude. This uncertainty is assumed, again as a policy decision, to effectively bracket each ED10 value by an amount equal to a factor of 3 (approximately the square root of one order of magnitude) both above and below the ED10 value. The EPA requests comment on this treatment of uncertainty in determining "more hazardous nonthreshold pollutants."

Three of the 189 hazardous air pollutants are considered to have weight of evidence which falls on the spectrum between "Group $B_2$" and "Group C." These are: perchloroethylene, trichloroethylene, and lindane. For the purposes of ranking hazard, these pollutants are considered by the proposed rule to be more like "B" than "C."

For "nonthreshold" pollutants listed in Table I, two pollutants are considered "equally hazardous" if the pollutants have potency (1/ED10) estimates that do not differ by more than a factor of 3, and the offsetting pollutant has the same (treating A and B carcinogens as one group) or a greater weight of evidence as the pollutant whose emissions are being increased.

The EPA requests comment on the merits of these three proposed criteria. In particular, the EPA is interested in the way carcinogens are grouped in the proposed rule. The EPA is also interested in comment on whether the proposed factor of three adequately takes into account uncertainty surrounding the potency estimate for the carcinogens. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA seeks

examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard.

b. Other Alternatives Considered for Identifying "More Hazardous" Decrease in Emissions of Carcinogens. The EPA reviewed several alternatives to the approach outlined in Paragraph 63.48(a) of the proposed rule.

One alternative approach for determining the relative hazard between pollutants is to develop an ordinal ranking of potency estimates. Such a ranking would treat each potency estimate as a discrete value and would ignore the uncertainty of the estimate. For example, a potency value of 10 would indicate a greater hazard than a potency value of 9.5. The EPA believes that for the purposes of the ranking such fine scale distinctions should not be made when the uncertainty in the data is taken into account. Additionally, this approach could prompt frequent reordering of the ranking as new scientific data become available and the potency estimates change.

Another approach that EPA considered would subdivide the potency estimates into groupings or "bins." This approach increases the stability of the ranking, because for any given pollutant, small changes in the potency value would not cause a change in the bin assignment. This approach may also have advantages in the treatment of multiple-pollutant streams. (If a group of pollutants were in the same bin, an emission total for that bin could in some cases be more straightforward to evaluate than treating each pollutant individually). However, this approach does not adequately reflect the differences in hazard for pollutants immediately adjacent to the borderline of the bins. For example, using bins of 1–10, 10–100 and 100–1000, a pollutant with a value of 101 would be treated as more hazardous than a pollutant with a value of 99, while a pollutant with a value of 99 would be treated as equally hazardous as another pollutant with a value of 11. A comparison between the approach in the proposed rule and to the fixed bin approach is displayed in Tables 2 and 3. The EPA also considered alternatives that are based solely on quantitative estimates of potency, and which would not consider weight of evidence as a factor in the hazard comparison. Ignoring weight of evidence classification, for example, could allow increases of a known (Group A) human carcinogen of low potency to be offset by decreases in a moderately or highly potent possible (Group C) human carcinogen. The EPA requests comment on whether such an offset should be considered as a decrease in hazard. The EPA believes that weight of evidence is an important consideration in describing the hazard associated with carcinogens.

The potency (1/ED10) values for the cancer ranking were obtained using the data base for RQ under CERCLA as a starting point. In compiling these values, the EPA recognized that the data base generated for ranking air pollutants under section 112(g) of the Act would require a greater emphasis on inhalation. For the proposed rule, the EPA reviewed the ED10 values in the CERCLA data base and made adjustments where deemed appropriate (oral values adjusted to inhalation values). Adjustments were also performed to ensure that the data base used in the determination of the ED10 was consistent with that used to develop unit risk estimates of carcinogenic potency for pollutants listed in the EPA's IRIS. The documentation of the specific ED10s used for the proposed cancer ranking is discussed in the technical background document.

TABLE 2.—EXAMPLE OF PROPOSED "NONTHRESHOLD" POLLUTANT RANKING

| CAS No. | Example pollutant | Potency (1/ED10) [1] | Weight of evidence classification |
|---|---|---|---|
| 75558 | 1,2-Propylenimine | 260 | B |
| 118741 | Hexachlorobenzene | 13 | B |
| 91941 | 3,3-Dichlorobenzidine | 7.5 | B |
| 95534 | o-Toluidine | 1.6 | B |
| 79469 | Vinylidene chloride | 1.2 | C |
| 79469 | 2-Nitropropane | [2] | B |

[1] The greater the potency value, the more hazardous the pollutant.
[2] Not available.

Example comparisons:

1,2-Propylenimine is more hazardous than Hexachlorobenzene because the potency value is more than three times greater (260 is more than 3×13) and because the weight of evidence classification is equal (both are Group B).

3,3-Dichlorobenzidine is "equally hazardous" than Hexachlorobenzene because the potency value is within a factor of three (13 is less than 3 times 7.5) and the weight of evidence classification is equal (both are Group B).

Vinylidene chloride cannot be considered more hazardous than any of the other pollutants because it does not have an equal or greater weight of evidence classification (Group C class is lower than the others which are either Group A or Group B).

2-Nitropropane (no potency value available) would not be allowed to offset, or be offset by other "nonthreshold" pollutants.

TABLE 3.—EXAMPLE ILLUSTRATING FIXED-BIN ALTERNATIVE APPROACH

| CAS No. | Example pollutant | Potency (1/ED10) | WOE | Bin No. |
|---|---|---|---|---|
| 75558 | 1,2-Propylenimine | 260 | B | 1 |
| 118741 | Hexachlorobenzene | 13 | B | 2 |
| 91941 | 3,3-Dichlorobenzidine | 7.5 | B | 3 |
| 95934 | o-Toluidine | 1.6 | B | |
| 75014 | Vinyl chloride | 1.6 | A | |

TABLE 3.—EXAMPLE ILLUSTRATING FIXED-BIN ALTERNATIVE APPROACH—Continued

| CAS No. | Example pollutant | Potency (1/ED10) | WOE | Bin No. |
|---|---|---|---|---|
| 75354 | Vinylidene chloride | 1.2 | C | |
| 79469 | 2-Nitropropane | (1) | B | ? |

[1] Not available.

Example comparisons: 1, 2-Propylenimine and Hexachlorobenzene are more hazardous than pollutants 3, 3 Dichlorobenzidine, o-Toluidine, Vinyl chloride and Vinylidene chloride because "Bin 1" and "Bin 2" pollutants are considered to be more hazardous than "Bin 3" pollutants.

2. "Threshold" Pollutant Increases

Paragraph 63.48(b). As discussed above, Table II contains pollutants that are considered to be "threshold pollutants." Two types of pollutants are considered "more hazardous" than pollutants listed in Table II.

First, consistent with the overall approach described in section IV.C. above, any "nonthreshold" pollutant in Table I is considered a "more hazardous pollutant" than any pollutant in Table II.

Second, any "high-concern" pollutant in Table III is considered to be a more hazardous pollutant than those in Table II.

A more hazardous pollutant from Table II can be defined by the following. In order to determine the relative hazard between pollutants listed in Table II, a "more hazardous pollutant" is defined as a pollutant whose composite score exceeds that of another pollutant by a sufficient amount. Similar to the approach described above for ranking carcinogens, the EPA believes that the uncertainty in the data should be considered in determining whether one threshold pollutant is "more hazardous" than another. For the proposed rule, a "threshold" pollutant is assumed to be more hazardous than another if its composite score exceeds that of the other pollutant by at least four composite score units. This value of four reflects a policy judgment by the EPA. A discussion of how this value was obtained is discussed in the draft technical support document (EPA 450/3–92–010). For the purposes of this rule, a "threshold" pollutant is considered to be "equally hazardous" to other "threshold" pollutants whose composite score is less than four composite score units. The EPA asks for public comment on whether the uncertainty in composite scores should be considered and, if so, how it should be considered for the section 112(b) pollutants.

The EPA recognizes that the policy decision in the proposed rule provides different treatment of pollutants which differ by 4 or more composite score units than those that are within 4 composite score units. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA asks for examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard.

3. "High-concern" Pollutant Increases

*Paragraph 63.48(c).* "High-concern" pollutants are listed in Table III. For some pollutants in Table III, a composite score is listed, while for other pollutants, the descriptor "A" is given. An asterisk indicates that the pollutant is also treated as a carcinogen.

Pollutants which list a composite score are included in the table on the basis of severe chronic toxicity. For these pollutants, a "more hazardous pollutant" is another pollutant in Table III whose composite score is at least four composite score units greater than the pollutant being increased.

Pollutants having the descriptor "A" are included on the list on the basis of severe effects from short-term exposures to relatively low concentrations. The EPA believes that it is not "practicable" to determine a "more hazardous pollutant" for pollutants of concern for "acute" toxicity. Therefore, pollutants appearing in the "high-concern" category with the designation of A are not allowed as offsets or to be offset with each other. Furthermore, they are not allowed to offset or be offset with pollutants in the category assigned composite scores.

The EPA requests comment on the merits of the proposed data and methodologies for identifying the "high-concern" category. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA asks for examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard.

4. "Unrankable" Pollutants

Paragraph 63.48(d). As discussed previously in section IV.C. of this preamble, the "unrankable" pollutants in Table IV cannot be used as offsets and cannot be offset by other HAP. The EPA requests comment on the merits of not allowing offsetting for "unrankable" pollutants. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA asks for examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard.

5. Treatment of Pollutant Mixtures

The EPA recognizes that not all proposed offsets will involve comparison of a single pollutant being increased with a single pollutant being decreased. The "more hazardous" finding must also address emission streams containing mixtures of pollutants being increased and decreased.

For the proposed rule, components of such pollutant mixtures are treated individually. The first step required, when an emission increase involves a mixture of pollutants, is to identify the HAP in the mixture which are being emitted in greater than *de minimis* quantities. A source owner seeking to offset the emission increases would need only to offset those pollutants which are increased above *de minimis* levels. Each pollutant in the stream is then categorized as being either "nonthreshold" (if listed in Table I), "threshold" (if listed in Table II), "high-concern" (if listed in Table III) or "not practicable" to rank (if listed in Table IV). Appropriate offsetting decreases must then be identified, depending on which of these categories the pollutant falls into. An example of the offsetting process for a stream of pollutants is given in Tables 4, 5, and 6 below.

If an appropriate offset cannot be identified for a given pollutant in the stream, then that stream is subject to the control technology requirements in section 63.35 of the proposed rule.

TABLE 4.—EXAMPLE EMISSION INCREASE INVOLVING A MULTI-POLLUTANT STREAM

[The following table illustrates an example emission increase from a multi-pollutant stream. The example stream contains several pollutants. For each pollutant, the example identifies where in the ranking (i.e., §63.48 of the proposed rule) the pollutant can be found. Finally, the table displays the type of data pertinent to that section of the proposed rule.]

| CAS No. | Pollutant being increased | Ranking category (which section of rule?) | Potency (1/ED10) | Weight of evidence | Composite score |
|---|---|---|---|---|---|
| 91941 | 3,3 Dichlorobenzidine | "Nonthreshold" Table I | 7.5 | B | |
| 75014 | Vinyl chloride | "Nonthreshold" Table I | 1.6 | A | |
| 748794 | Mercuric chloride | "High-concern" Table III | | | 40 |
| 126998 | Toluene | "Threshold" Table II | | | 7 |

TABLE 5.—POLLUTANTS CONSIDERED "EQUALLY HAZARDOUS" UNDER THE EPA'S PROPOSED APPROACH

| CAS No. | Stream pollutant | Which offsetting pollutants would be considered "equally hazardous" |
|---|---|---|
| 91941 | 3,3-Dichlorobenzidine | Any "nonthreshold" pollutant, i.e., found in Table I, if:<br>Weight of evidence is A or B and the potency (1/ED10) is in following range:<br>Greater than 2.5 (i.e., 7.5/3) and less than 23 (i.e., 7.5 x 3). |
| 75014 | Vinyl chloride | Any "nonthreshold" pollutant if:<br>Weight of evidence is A or B and the.<br>Potency is in following range:<br>Greater than 0.53 (i.e., 1.6/3) and less than 4.8 (i.e, 1.6 x 3). |
| 748794 | Mercuric chloride | Any "high-concern" pollutant, i.e., Table III, if:<br>The composite score is greater than 36 (i.e., 40 minus 4) and less than 44 (i.e., 40 plus 4). |
| 126998 | Toluene | Any "threshold" pollutant, i.e., in Table II if:<br>The composite score is greater than 3 (i.e., 7 minus 4) and less than 11 (i.e., 7 plus 4). |

Pollutants in Table I are equally hazardous if the potency (1/ED10) value varies by less than a factor of 3 and weight of evidence restrictions are observed.

Pollutants in Table II are equally hazardous if the potency (composite score) value varies by less than + or −4 composite score units.

TABLE 6.—POLLUTANTS CONSIDERED "MORE HAZARDOUS" UNDER THE EPA'S PROPOSED APPROACH

| CAS No. | Stream pollutant | Which offsetting pollutants would be deemed "more hazardous" |
|---|---|---|
| 91941 | 3,3-Dichlorobenzidine | Must be another "nonthreshold" pollutant (Table I): must pass *potency* and *wt of evidence* tests.<br>Potency must be > 23 (i.e., 3 x 7.5).<br>Weight of evidence must be A or B. |
| 75014 | Vinyl chloride | Must be another "nonthreshold" pollutant (Table I).<br>Potency must be > 4.8 (i.e., 3 x 1.6).<br>Weight of evidence must be A or B. |
| 748794 | Mercuric chloride | Must be another "high-concern" pollutant (Table III).<br>Composite score must be > 44 (4 + 40).<br>"Nonthreshold" pollutants (Table I) are not considered "more hazardous". |
| 126998 | Toluene | Can be another "threshold" pollutant in Table II, if composite score is > or = 11.<br>Any "high-concern" pollutant in Table III is considered "more hazardous".<br>Any "nonthreshold" pollutant (including potency A, B, or C is "more hazardous"). |

*E. Determination of a "More Hazardous" Decrease in Emissions*

As mentioned previously, there are two possible interpretations of the language in section 112(g) describing an emissions decrease "which is deemed more hazardous." Under the approach based upon a "more hazardous pollutant" reading of the statute, a pollutant with increased emissions must be offset by an equal or greater quantity of emissions from another HAP considered to be "more hazardous."

The approach proposed by the EPA in this rule attempts to determine the quantity of emissions decrease needed to constitute a "more hazardous quantity." Under this approach, the EPA does not attempt to establish the magnitude of the difference between pollutants.

Under EPA's proposed approach, a "more hazardous quantity" consists of two possibilities: (1) A greater or equal decrease in a pollutant that is deemed "more hazardous" according to the scheme described above, and (2) more (the proposed rule requires 1.25 times as much) of a pollutant that is deemed "equally hazardous."

The EPA's proposed approach is similar to a "more hazardous pollutant" approach in all aspects except for one. Pollutants which have similar enough hazard estimates so that a determination cannot be made with certainty that they are different in hazard are considered to be "equally hazardous." While "equally" hazardous pollutants are not

allowed as offsets under the "more hazardous pollutant" approach, they are allowed as offsets under the EPA's proposed approach if a "more hazardous quantity" of an "equally hazardous" pollutant is used as an offset. The EPA's proposed approach does not attempt to establish the magnitude in difference in "hazard" between pollutants. The establishment of a "more hazardous quantity" of an "equally hazardous" pollutant is a fixed percentage increase and is a policy decision. The EPA proposes to set that percentage to be 25 percent more than the increase in emissions and recognizes that, due to uncertainty in the hazard estimates, it may not accurately reflect the actual differences in hazard between two pollutants. The EPA solicits comment on the merits of establishing a 25 percent minimum increase in reductions as the definition of a "more hazardous quantity" of equally hazardous pollutants. In this regard, the EPA seeks comment concerning examples of offsets that reduce hazard which would be precluded by the criteria in the proposed rule. Similarly, the EPA asks for examples where the current proposal is not restrictive enough to prevent offsets from occurring which cause an increase in hazard.

*F. Miscellaneous Hazard Ranking Issues*

The above discussion outlines the overall methods for ranking the pollutants under the EPA's proposed approach. Within this overall framework, rest a few important issues for which the EPA seeks comment.

1. Consideration of Non-Inhalation Hazard

A potentially important consideration in the hazard ranking is the potential of a given pollutant for non-inhalation routes of human exposure. This non-inhalation exposure potential could be particularly important for particulate HAP which could deposit in the vicinity of the release point, and which are persistent and/or bioconcentrate. Such pollutants could create a greater hazard for exposure by non-inhalation pathways such as soil, plant or fish ingestion, than would other pollutants which do not deposit, are not persistent, or do not tend to bioconcentrate. All other properties being equal, it would appear that a pollutant which has a high potential for such non-inhalation exposures should be considered more hazardous than another pollutant with a low potential.

The EPA believes that there are a number of unaddressed questions which need further discussion before non-inhalation exposure potential is explicitly accounted for in the ranking: (1) How would a qualitative criterion such as non-inhalation exposure potential be incorporated into the ranking methodologies proposed? (2) Should non-inhalation exposure potential be given the same weight as potency and weight of evidence for carcinogens and composite score for non-carcinogens? (3) Should the toxicity of certain pollutants be downgraded if non-inhalation exposure is not of great concern? and (4) Which dose should be used for consideration of effect; the doses received at the "fence line" immediately or the dose which is accumulated after a specified length of time?

For this proposal, there is no explicit consideration given for non-inhalation exposure potential in the hazard ranking. Currently, the EPA does not believe there is an adequate quantitative procedure for such a consideration.

The EPA considered possible approaches for addressing non-inhalation exposure potential in the ranking. Under section 112(i), Early Reductions, an additional weighting factor of 10 was added to pollutants of concern for bioaccumulation. As noted previously in this preamble in the discussion regarding *de minimis* values, in conjunction with the Great Waters study pursuant to section 112(m) of the Act, the EPA has identified a list of pollutants of greatest concern. One possible approach would be to make adjustments in the hazard ranking for the pollutants on this list. However, it would be difficult to select the amount of adjustment that should be made. Another option would be to use information on bioconcentration and persistence to place threshold pollutants onto the high-concern threshold pollutant list and further restrict the pollutants available for offsetting. The EPA requests comment on how this information could be used to provide for explicit consideration of non-inhalation exposure potential in the ranking.

2. Half-Life

Aside from the non-inhalation exposure considerations, another possible consideration in the ranking is the persistence of the pollutant in the atmosphere. The EPA considered accounting in the ranking for the fact that some pollutants (for example, carbon tetrachloride) have very long half-lives in the atmosphere, while other pollutants are highly reactive, with half-lives on the order of a few hours. Pollutants with relatively long half-lives would tend to expose greater numbers of people to very low concentrations. Pollutants with relatively short half-lives would tend to have a similar impact to nearby residents, but would have a lesser exposure potential further downwind.

The EPA proposes that half-life not be taken into consideration in the pollutant ranking. The EPA believes that the focus of the program should be the potential for ambient exposures to individuals exposed to potentially high concentrations. The EPA requests comment on this issue.

A corollary to this issue is the potential for reactive pollutants to form transformation products which may be more hazardous than the parent compounds. At present, the EPA has not identified a method for taking this into account in the ranking. The EPA requests comment on this issue.

3. Appeal Process; Consideration of Exposure Data and Other Mitigating Factors

The goal of the hazard ranking is to ensure that the offsetting emissions will provide for public health improvements relative to the emission increases that will occur. During the SAB consultation meeting and in other discussions, commentors have questioned whether a hazard ranking system can be developed that will never make a mistake, i.e., allow an increased risk, due to the complexity of the task and the sparseness of the scientific data. They identified a number of mitigating factors which have not been incorporated into the ranking which could affect the health impact. The SAB members and other commentors have advised that EPA provide for the opportunity to do an exposure analysis and to consider other physical parameters such as chemical properties and atmospheric formation or degradation potential in determining offsetting restrictions. The hazard ranking in the proposed rule, in effect, uses emission rates as a surrogate for exposure assessment. While a comprehensive site-specific risk assessment, which could include detailed information on exposure, would conceivably be more health protective, the EPA is concerned that the time required to perform and review such an assessment would seriously burden both affected industries and reviewing authorities. Such an extensive review time seems contrary to Congressional intent for minimizing the delays associated with these requirements.

In addition to the exposure issue, there are probably offsets allowed or prohibited by the hazard ranking that would be treated differently based upon a detailed case-by-case review of the health effects data base for the

chemicals in question. The EPA recognizes that any general scheme for ranking the hazard of pollutants as diverse as those listed in section 112(b) will not be error-free. Such situations were of particular concern to participants of the SAB consultation meeting, who advised that any hazard ranking include an appeal process to account for such errors.

The EPA requests public comment on whether the final rule should contain such an appeal process, either by the plant owner, by the permitting authority, or by the public. While recognizing the overall merits of such a process, the EPA is concerned that such an appeal process could substantially increase the time needed for review and subsequently the decision on whether a source could avoid a case-by-case MACT determination. Additionally, many of the permitting authorities, which EPA envisions will be implementing section 112(g), do not have staff with expertise in toxicology and exposure assessment. One option would be to centralize the appeal process at the Federal level, but this could substantially delay the review process.

4. Treatment of Noncancer Effects of Carcinogens

The EPA recognizes that "nonthreshold" pollutants may produce a variety of health effects in addition to cancer, including noncancer toxicity from "short-term," subchronic, and chronic exposures. For example, health effects data for some pollutants indicate that exposure may produce noncancer effects such as respiratory irritation, neurotoxicity, or developmental toxicity in addition to cancer. The EPA's proposed approach currently ranks carcinogens primarily by their carcinogenic potency. Potential human carcinogens which are acutely toxic, or manifest toxicity from relatively low concentrations at short durations of exposure, are unavailable as offsets to be offset by other carcinogens. Such pollutants are also not available as offsets with each other but are considered to be "more hazardous" than the "threshold" pollutants.

A question which the present approach does not address is how to treat carcinogens which may also be of concern for chronic toxicity. Two options for evaluation of noncancer toxicity of carcinogens have been developed by the EPA. In option 1, "noncancer" pollutants with sufficient evidence and extent of noncancer toxicity are identified as "high-concern" pollutants. In option 2, "nonthreshold" pollutants are evaluated for noncancer health effects in addition to cancer concerns by application of expanded offset rules. The EPA asks for comment on two basic approaches which may be considered for appropriately taking into account the non-carcinogenic effects of carcinogens. Both approaches would have problems with implementation due to inadequate data and would increase the complexity of the current scheme.

In the first approach, "nonthreshold" pollutants which may have sufficiently high chronic noncancer toxicity as the endpoint of concern rather than carcinogenicity are identified as "high-concern pollutants." The first step would be to assign appropriate composite scores to all "nonthreshold" pollutants, identify those which would be of concern for chronic toxicity (i.e., have high composite scores). Then those pollutants which have composite scores greater than 20 would be put into the "high-concern" category. A variation of that approach is to put a subset, only those pollutants with either no or a low potency estimate (1/ED10 less than 0.1) and a Composite Score greater than 20, into the "high-concern" category. Once placed in the "high-concern" category, these pollutants would not be available as offsets for other potential human carcinogens, other pollutants in the "high-concern" category with composite scores, or pollutants identified as being acutely toxic. These pollutants would still be considered to be more hazardous than "threshold" pollutants. This group of compounds would have a status similar to lead compounds under the current EPA approach.

In the second approach, the spectrum of health effects associated with pollutants are considered in evaluating pollutant offsets. The health effects that may result from exposure to pollutants are generally identified as: (1) carcinogenicity (equated in this guidance with "nonthreshold"), (2) noncancer effects from chronic exposures, and (3) noncancer effects from "short-term" exposures. In option 2, both carcinogenicity and noncancer toxicity from chronic exposures are explicitly considered in evaluating offsets, while noncancer toxicity from acute exposures is evaluated insofar as identifying pollutants that meet the "high-concern" list criteria. A sequential evaluation of carcinogenicity and noncancer effects from chronic exposures occurs in this option. First, cancer is evaluated according to the procedures in § 63.48 of the proposed rule. Then, emissions of the pollutant being increased are compared to *de minimis* values to determine if noncancer toxicity from chronic exposures should be evaluated. If the emissions are above a *de minimis* value for noncancer effects from chronic exposures, then the composite scores are evaluated consistent with the determination of relative hazard for threshold pollutants (as discussed in § 63.48). To implement this approach requires both *de minimis* values for noncancer effects from chronic exposures as well as composite scores. Public comments are requested on these options, on the availability of data to implement this approach, and on the scientific and policy options the EPA should consider when little or no health effects data needed to implement the approach are available.

The EPA requests comments on the overall concepts of Option 2, and on the practicality and availability of data of each of the proposed options.

5. Weighted Offsets

Another critical decision in the determination of "a more hazardous" decrease in emissions is whether or not to allow for "weighted offsets."

Under the proposed rule, a "more hazardous" decrease in emissions may be determined in two ways: (1) A greater or equal decrease in emissions of a pollutant that is deemed "more hazardous" according to the scheme described above, or (2) more (the proposed rule requires 1.25 as much) of a pollutant that is deemed "equally hazardous."

Under a weighting system, a policy judgment would be made that would assign a weighting factor for each pollutant. For each pollutant being increased, the emission rate would be multiplied by the weighting factor to yield a weighted emission increase. The sum, over all pollutants, of the weighted emission increases would yield an overall weighted emission increase for the modification. Similarly, for each pollutant being proposed as offsets, the emission decrease would be multiplied by the weighting factor to yield a weighted emission decrease. The sum over all pollutants being decreased would yield an overall weighted decrease. If the sum of the weighted decreases exceeded the sum of the weighted increases by a specified amount or ratio, then the offsets would be approved. Such a simple system of weighting factors for the most toxic HAP has been developed by the EPA for use in another Clean Air Act program for early reductions pursuant to section 112(i)(5).

A number of commentors to the EPA have supported the concept of weighted trading as providing more flexibility for sources to find acceptable offsets. Such

a system could create more opportunities for offsets than the proposed rule. For example, a system of weighted offsets would allow offsets of a "more hazardous" quantity of "less hazardous" pollutants as well as less than 1 to 1 offsets of a "more hazardous" pollutant if the exact quantity of that pollutant which is "more hazardous" can be determined.

Another commenter to the EPA has suggested that the "more hazardous pollutant" language in section 112(g) does not provide for weighted offsets. Consequently only an equal or greater quantity of a "more hazardous" pollutant will satisfy the requirements for a "more hazardous emissions decrease."

The EPA attempted to develop a system of weighting factors for use in the section 112(g) rule and a draft approach was circulated internally within the EPA and to members of the Clean Air Act Advisory Committee. During the review process, EPA scientists emphasized their belief that is not possible to develop a generalized system of weighting factors for such a large and diverse number of pollutants that is scientifically credible. This conclusion is based upon limitations in the scientific data base on health effects for the various HAP, and in particular the uncertainty in methods for quantifying the difference in hazard between pollutants with varying endpoints of concern. In order to provide a basis for public dialogue on this issue, the EPA is providing in the public docket for the proposed rule: (1) A description of the EPA draft weighting factor system, and (2) a critique on the issue of weighting factors by the EPA's Office of Research and Development. The EPA requests comment on the scientific defensibility of this approach, and other possible weighting factor approaches, relative to the approach in the proposed rule.

The EPA believes that there are important differences between the needs of the section 112(g) program and those of the section 112(i)(5) "early reductions" program. The approach used in the early reductions program is described in detail in the **Federal Register** notice for the program (56 FR 27738, June 13, 1991). For the early reductions program, the Act requires the EPA to "limit" the offsetting of "high-risk" pollutants. Accordingly, weighting factors were selected for a relatively small subset of the list of 189 HAP. For section 112(g), an approach is needed which addresses the entire list of 189 HAP. For the early reductions program, it was felt that emissions of an extremely small (trace) amount of a very hazardous pollutant could prevent a company from participating in the program (they may not be able to reduce such an amount by 90 percent); the weighting factors were developed principly to allow companies to reduce hazard by controlling emissions which could be reduced instead of the trace amount, thus, avoiding this trace emission problem. For section 112(g), the EPA believes that trace emission increases of HAP will not prevent beneficial results, because trace emission increases likely will not be greater than the *de minimis* emission rates established in the proposed rule.

Another important difference between the two programs is that the early reductions program will always involve an environmental benefit, i.e., the 90 or 95 percent reduction in HAP emissions. If weighting factors are inaccurate under the early reductions program, the environmental benefits would be somewhat minimized, but benefits would nonetheless occur. On the other hand, if a weighting system is used for the section 112(g) rule and is inaccurate, offsets could lead to an increase in hazard or the health risk.

The EPA believes that it is important to recognize that the early reductions weighting approach was not intended to serve as a precedent for other programs. In the June 13, 1991 **Federal Register** preamble, the EPA emphasized this point as follows:

> The selection of today's approach for purposes of section 112(i)(5)(E) is not intended to establish a precedent for the other provisions affected by hazard ranking or preclude the consideration of other alternatives * * * (See 56 FR 27361).

In particular, the weighting factors of 1 and 10 for non-carcinogens, which were based upon a broad policy decision for the early reductions program, are inadequate for describing the differences in potency or severity between pollutants for purposes of offset comparisons under section 112(g). The actual differences in potency between the non-carcinogens could span many orders of magnitude.

The EPA recognizes the need to provide updated information related to potency estimates and weight of evidence as new scientific data become available. The EPA requests comment on two approaches to providing such updates. The first approach would be to provide for periodic updates to the ranking, which would involve periodic revisions to the proposed rule. A second approach would be to provide for a data base which could reflect automatic updates to the regulation. The latter approach could provide for a more expeditious process for updating the ranking. The primary disadvantage of this approach is that it might require the data base to be consulted frequently to ensure an up-to-date assessment.

## V. Discussion of the Relationship of the Proposed Requirements to Other Requirements of the Act

The previous sections of this preamble discuss the requirements of the proposed rule in defining the requirements of section 112(g) of the Act as it relates to constructed, modified or reconstructed major sources of HAP. In addition, there are a number of issues concerning the relationship between the requirements of section 112(g) and other requirements of the Act that are relevant to the implementation of the requirements of the proposed rule. These issues are important in defining the overall responsibilities of States and the EPA in carrying out the requirements of section 112(g), and in understanding how section 112(g) requirements relate to other important requirements of the Act. The purpose of this section of the preamble is to present, and to take comment on, a number of regulatory and statutory interpretations related to these implementation issues.

### *A. Relationship of Section 112(g) Implementation to Title V Program Approval*

Title V of the Act and the part 70 regulations provide that a State seeking to obtain or retain approval of a title V program must have authority to assure compliance with all applicable requirements through the title V permit. Section 502(b)(5)(A); 40 CFR 70.4(b)(3)(i). The preamble to the proposed operating permits rule explains that, in the context of section 112, the permitting authority must have authority to, "develop and enforce case-by-case determinations of MACT for new, reconstructed, or modified sources where no applicable emissions limitations have been yet established." (56 FR 21723 (May 10, 1991)). This is reaffirmed in the preamble to the final operating permits rule. (See 57 FR 32260 (July 21, 1992).) The final rule and preambles to the proposed and final rule thus make clear that, to "assure compliance" with section 112(g), the State must be able to make case-by-case determinations of MACT.

This rule and preamble language represent what EPA considers to be the most natural reading of section 112(g). The EPA reads the reference in section 112(g)(2) to case-by-case determinations made by "the Administrator (or the State)" to mean that these

determinations must be made by the title V permitting authority. This reading is consistent with the reference in section 112(g)(2) to the effective date of the title V program as the date on which the requirements of section 112(g) become applicable, and with the title V requirement that major sources of HAP submit applications for title V permits regardless of whether they are subject to a MACT standard. It is also consistent with the reference in section 112(j) to "the Administrator (or the State)" as the entity that must make case-by-case determinations of MACT and issue permits incorporating these determinations.

As noted above, the authority to implement all aspects of section 112(g) is a prerequisite to obtaining and retaining title V approval. However, since section 112(g)(2) does not take effect until the effective date of a title V program, EPA believes it is not necessary for the State to have this authority upon the date of submittal of the title V program. For purposes of the permit program submittal, it is sufficient for the State to demonstrate that it has the broad legislative authority needed to implement all aspects of section 112(g), to include a commitment that it will have the necessary additional authority and resources to implement section 112(g) upon the effective date of the title V program. In practical terms, this means the State must be able to demonstrate the adequacy of its authority and resource capabilities with respect to section 112(g) prior to the approval of the title V program. However, the EPA does not intend to require a formal demonstration of adequate authority and resources at that time unless it believes there is reason to question the State's ability to implement section 112(g).

*B. Relationship to the Section 112(l) Delegation Process*

Under section 112(l) of the Act, States have the option of developing and submitting to the Administrator a program for implementing the requirements of section 112, including section 112(g). The EPA promulgated a rule for the implementation of section 112(l) on November 26, 1993 (58 FR 62262). This rulemaking added §§ 63.90 through 63.96 to 40 CFR part 63.

The EPA proposes that the approval processes provided under section 112(l) be used to facilitate the implementation of section 112(g) by States in a way that minimizes disruption of existing State and local toxic air pollutant permit programs. During the mid to late 1980's, most States adopted regulations or procedures to review toxic air pollutant emissions from new and modified sources. In some cases, those programs already regulate some or all of the equipment covered by section 112(g). In other cases, the programs affect fewer pollutants or do not require as stringent control requirements. The section 112(l) process can be used by States to preserve existing requirements, while incorporating the requirements of this proposed rule, into an overall program that meets the requirements of the Act.

The section 112(l) rule provides a State with several options for gaining EPA approval of alternative State requirements. Two of these options are applicable to section 112(g). Under the first option, addressed by 40 CFR 63.92 of the section 112(l) rule, a State may submit a program implementing section 112(g) with changes that clearly make their program no less stringent than the Federal rule (i.e., the final version of 40 CFR part 63, subpart B). These changes are referred to in the section 112(l) rule as "adjustments" and are listed in 40 CFR 63.92. An example of such an adjustment for section 112(g) would be lower *de minimis* values. Another option which is available to a State wishing to make broader changes, or when it is less clear that differences in the State's program make them as stringent as the Federal rule, is to submit a detailed demonstration in accordance with 40 CFR 63.93. States wishing to use this approach must provide a detailed demonstration ensuring that for all affected sources, the State rule is no less stringent than the Federal rule.

Some States may choose to adopt the Federal section 112(g) program with no changes. Where this is the case, the EPA does not believe that a formal review process is required under section 112(l). For such States, the EPA believes that the review and approval process involved in its review of the part 70 permit program submission is adequate to ensure that the section 112(l)(5) criteria for approval of the State's section 112(g) program are met.

There are two important issues related to section 112(l) program submittals as they relate to the section 112(g) requirements. The EPA requests comment on these two issues, for purposes of providing guidance to EPA Regional Offices and States regarding the section 112(l) approval process for section 112(g) programs.

First, a number of State programs contain technology requirements (sometimes referred to as Toxic Best Available Control Technology, or T–BACT). An important issue with regard to approval of section 112(l) programs is whether such T–BACT programs need to include consideration of the "MACT floor" described in section 112(d) of the Act. The EPA believes that the MACT floor is a fundamental requirement of section 112(g) determination, and hence, the "MACT floor" must be considered to obtain approval of section 112(g) authority. As discussed previously in this preamble, the EPA is working with State agencies to develop technology transfer methods to ensure that the consideration of the MACT floor is not unduly burdensome.

Second, a number of States have expressed interest in implementing the section 112(g) program without the provision for emission offsets. The EPA requests comment on whether the deletion of offsets could be considered an "adjustment" which could be added to the list of adjustments in 40 CFR 63.92. For existing State law or programs which do not provide for offsets, the EPA believes that the inclusion of emission offsets provided by the Federal section 112(g) rule would be of little practical use. Accordingly, if a State chose to continue their program, a choice which is specifically allowed by section 112(l), and that program does not provide offsets, then EPA does not believe that an insistence on offsets as a condition of a section 112(l) approval is necessary. Furthermore, the EPA believes that States have broad authority to make changes to specific offset requirements that are imposed under the Federal rule (for example, a State requirement for a risk assessment in addition to the requirements in the section 112(g) rule), so long as those changes ensure that the State program is no less stringent than any requirement imposed by the Federal rule. The EPA requests comment on the above discussion with respect to State programs without offsets, including any specific changes to the proposed rule which could serve to clarify this issue.

*C. Section 112(i)(5) Early Reductions Program*

Section 112(i)(5) allows owners and operators, that provide early reductions in hazardous air pollutant emissions, to be granted a 6-year extension of any compliance date for emission standards issued under section 112(d). In order to participate in the section 112(i)(5) program, the owner or operator defines a "source" at a plant site for which a 90 or 95 percent reduction in emissions can be accomplished before the proposal date of the emission standard. There are a number of items of clarification on the relationship between the section 112(i)(5) requirements and section 112(g).

First, the extension granted by section 112(i)(5) applies only to that equipment incorporated within the "source" for which the 90 or 95 percent reduction was accomplished. Other equipment at a plant-site not included within that "source" definition are subject to section 112(g) requirements if they make changes that would be considered to be construction, reconstruction, or modification of a major source pursuant to the proposed rule.

On the other hand, equipment within the "source" definition for which there is an approved early reductions submittal are not subject to further control technology requirements under section 112(g). Section 112(g) requires case-by-case MACT where no "applicable emission limitation" exist. The EPA proposes that the "alternative emission limitation" under section 112(i)(5) be considered an "applicable emissions limitation" for purposes of section 112(g), such that compliance with such alternative emissions limitation shields a source from having to comply with section 112(g).

*D. Section 112(j) "Hammer" Provision*

Section 112(j) of the Act contains case-by-case MACT requirements for sources for which EPA has not promulgated emission standards according to the schedule contained in section 112(e) of the Act. If EPA has not promulgated an emission standard for a category, then, within 18 months of the deadline for that standard, the owner or operator must submit a permit application to obtain a case-by-case emission limitation judged by the permitting authority to be equivalent to a Federal MACT emission limitation. The EPA has proposed a rule that would implement the section 112(j) requirements. (58 FR 37778, July 13 1993.)

States and sources implementing the requirements of section 112 of the Clean Air Act need to understand the potentially complex relationships among the requirements of section 112(d), (g) and (j).

The EPA's primary goal is to create as seamless a web as possible between case-by-case MACT determinations under section 112(g) and implementation of subsequent section 112(d) standards for those same source categories. In addition, the EPA desires to rationalize the section 112(g) provisions with the section 112(j) provisions requiring case-by-case MACT determinations for constructed, reconstructed, and modified major sources. While under the Act some of the specific substantive requirements of section 112(g) differ under the Act from the substantive requirements of sections 112(j) and 112(d), the EPA intends to ensure the greatest possible operational consistency among section 112(d), (g), and (j) provisions.

One fundamental principal guiding the design of all three programs is that substantive control requirements under section 112(g) hold only until the requirements of a sections 112(j) or 112(d) standard become effective. In other words, after the effective date of a section 112(j) case-by-case MACT determination or a section 112(d) MACT standard, the control requirements of section 112(j) or section 112(d) supersede the control requirements of section 112(g).

The EPA considered an alternative approach, i.e., the finding that section 112(g) governs all changes and additions of new emission units at existing sources whether or not a section 112(d) or section (j) standard exists. The EPA rejected this approach for reasons enumerated below. Nevertheless the EPA requests comment on both approaches.

One reason for rejecting the approach that section 112(g) control extends to sources covered by section 112(d) or section 112(j) standards is that it leads to the conclusion that many new sources within the section 112(a)(4) definition of new source would forever escape having to apply a new source MACT level of control. Such an interpretation is in conflict with the requirements of section 112(d).

Section 112(a)(4) defines a new source as "a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing an emission standard applicable to such source." Thus, once a standard has been set under section 112(d), any new source will be subject to new source MACT. Moreover, under section 112(a), a "stationary source" can be "major" section (112(a)(1)) or "area" section (112(a)(2)). The MACT standard will define the portion of a facility that is considered a "source" for the purposes of the particular standard.

Section 112(g) applies to construction, reconstruction, or modification of major sources, and in many cases will have an effect on sources earlier than sections 112 (d) or (j) standards. However, section 112(g) only requires new source MACT on new major sources, and considers any other new emission unit to be a modification of an existing major source. As a "modification," such a new emission unit will be required to apply for existing source case-by-case MACT determination under section 112(g). Therefore, if section 112(g) were to constrain the application of a subsequent section 112(j) or section 112(d) standard, many new emission units under the section 112(a)(4) definition of "new source" would never be required to comply with new source MACT.

In addition, under section 112(g) a new emission unit might not even be required to meet an existing source MACT level of control. Section 112(g) allows for modifications to either: (1) Comply with a case-by-case "existing source" MACT determination under section 112(g); (2) offset emissions increases in lieu of applying section 112(g) existing source MACT requirements; or (3) if its emissions were below section 112(g) *de minimis* levels, not be subject to any control requirements at all. The EPA believes that section 112(g) thus provides major sources with a great deal of needed flexibility before section 112 (d) or (j) standards are set; but that once those standards are in place the Act intends that these sources must comply with the specific requirements of those standards.

Finally, the interpretation that section 112(g) governs the addition of new equipment at major sources to which section 112 (d) or (j) standards already apply has some anomalous implications. One example would be a new emission unit whose emissions are below section 112(g) *de minimis* levels for a particular hazardous air pollutant. If that emission unit were added to a major source, it would be exempt from the requirements of section 112(g), but would be required to apply new source MACT control under section 112(j). However, if that emission unit were *not* below section 112(g) *de minimis* levels, it would be required to comply with section 112(g). If section 112(g) requirements limit the application of section 112(j), then the source would be required to apply existing source MACT. In this instance, a smaller emission unit would be required to control more stringently than a larger emission unit.

Another example of anomalies resulting from this reading of the statute would be a section 112(d) standard that sets new source MACT for new area sources in a source category. Under this reading, major sources adding new sources could avoid new source MACT, but any new area source would have to meet new source MACT. Again, a smaller unit would be required to control more stringently than a larger emission unit.

Therefore EPA believes that the substantive control requirements of section 112(g) are pre-empted by the

requirements of a relevant section 112(j) or section 112(d) standard, in cases where the construction, reconstruction or modification occurs after the date section 112(j) or section 112(d) standards apply.

However, as noted above in the discussion on § 63.49 of the proposed rule, the EPA believes that an emission unit already complying with a case-by-case determination under section 112(g) should be assumed to comply with the requirements of section 112(j).

*E. Subpart A "General Provisions"*

As mentioned previously, the EPA has proposed "general provisions" to the MACT program as proposed Subpart A to 40 CFR part 63 (58 FR 42760, August 11, 1993). These general provisions contain a number of definitions and provisions that generally affect the subparts of part 63 that follow, including Subpart B discussed here. Another purpose of the general provisions is to provide general descriptions of requirements that are intended to direct the reader to appropriate subparts. The proposed general provisions envisioned that a subsequent rulemaking would add language to cover general aspects of the section 112(g) requirements. In today's proposed rule, the EPA proposes a number of additions to subpart A to accomplish this goal. These additions are not intended as substantive interpretations of section 112(g) of the Act, but are intended to direct a reader of the general provisions to the substantive requirements in Subpart B. The EPA requests comment on these general provisions additions.

*F. Section 112(g) Implementation During the Transition Period*

Section 112(g)(2)(A) requires that after the effective date of a part 70 permit program to implement title V of the Act in any State, no person may modify, construct or reconstruct a major source of HAP in such State, unless the Administrator (or the State) determines that the MACT limitation in this section has been met or that sufficient offsets have been provided. The EPA interprets the statute to require that States must implement section 112(g), including development of case-by-case MACT determinations, in order to obtain and retain approval of a part 70 permit program. The EPA also believes that the prohibition on construction, reconstruction, or modification takes effect on the approval date of the part 70 program. That is, subject sources may not construct, reconstruct, or modify unless the permitting authority has approved either a case-by-case MACT determination or an offset showing.

Under section 502(a), the EPA must approve or disapprove within 12 months a State submittal to implement title V which is due November 15, 1993. As a result, the final EPA rule defining technical and procedural requirements for source changes subject to section 112(g) likely will not be published until or after the effective date of some State title V programs. Under this scenario, these States would be faced with implementing section 112(g) without necessarily having sufficient time to adopt rules at the State level that specifically implement section 112(g) and, in some cases, before promulgation of the final section 112(g) rules. In an effort to avoid unnecessary disruption during this period, EPA is clarifying how States can implement and sources may comply with all aspects of section 112(g) during the transition period occurring as the State adopts the final EPA section 112(g) rule as needed or has an alternate program approved under section 112(l). Furthermore, the EPA proposes that in order to maintain full approval of this part 70 program, States must complete any rulemaking needed to implement EPA's final section 112(g) rules on or before 18 months from the date of their promulgation.

Any interim mechanism operating in the transition period must produce source requirements that are federally enforceable and consistent with those that otherwise would result from implementing the promulgated section 112(g) rule (or, prior to promulgation, reasonably consistent with the proposed rule). The EPA believes that any transition program must provide results consistent with the final rule (in substance and process) in order for sources to have reasonable certainty regarding their ability to comply with section 112(g) and its implementing regulations. Finally, the EPA believes that the transition program must be carried out through existing mechanisms which do not require significant new investments in time and infrastructure development by the State to implement or by sources in order to comply. The EPA prefers that these limited resources be instead focused on incorporating the requirements of the promulgated rule into existing State programs. The EPA believes that there are several potential mechanisms available to implement the section 112(g) requirements consistent with these criteria.

First, sources proposing changes that would be subject to section 112(g) could be issued a part 70 permit which would apply to all requirements applicable to the source under the Clean Air Act, including those under section 112(g) which apply to the HAP emissions from the constructed, reconstructed, or modified unit(s) of a facility and the additional facility emission units used in an offset demonstration, if any. Using this option could involve some additional procedural steps beyond those required in the section 112(g) rules and certainly would require more comprehensive permit conditions to be met than just those of section 112(g). However, this procedure would not necessarily result in large new delays because the Act does require expeditious processing of any part 70 permit involving a construction activity. In particular, section 503(c) of the Act in discussing the required schedule for State processing of operating permit applications necessitates:

> Such authority shall establish reasonable procedures to prioritized such approval or disapproval actions in the case of applications for construction or modification under applicable requirements of this Act.

The EPA interprets this language to require that States prioritized operating permit review for all facilities which have been or become subject to the requirements of section 112(g). The EPA expects that this priority schedule will further ensure timely compliance with the promulgated rule.

The EPA also takes comment on the possibility for States to issue specialty title V permits specific to section 112(g) actions. The State would determine terms and conditions for such a permit based on the promulgated EPA rule for section 112(g). Although the Act in general requires that any title V permit must address all applicable requirements, EPA believes that exceptions to this rule may be possible, but only in exceptional circumstances where the issuance of a short-lived single-purpose operating permit is necessary in order to implement clear statutory objectives. The EPA takes comment on whether this is the case here.

As a second basic option, the EPA proposes that all State Implementation Plans (SIP) approved new source review (NSR) programs are authorized to establish Federally enforceable conditions for HAP, as well as for criteria pollutants. Clearly, States can develop HAP emission limits meeting section 112(g) in the NSR program approved by EPA pursuant to section 110(a)(2)(C) as part of the State's overall plan to attain and maintain the national ambient air quality standards (NAAQS). Moreover, these existing programs either already require or can be

enhanced in any specific permit issuance situation to meet a process equivalent to that which is likely to be required in the final section 112(g) rules. Extending this recognition directly to all HAPs would be based in part on the general authority of section 112(l) to recognize State toxic control programs to establish Federally enforceable requirements, and in part on EPA's general authority under section 301 to "prescribe such regulations as are necessary to carry out its functions" under the Act. The EPA believes that such recognition is consistent with both the need for a workable transition program for section 112(g) and the reasonable need for a mechanism to allow sources to develop conditions limiting their potential to emit for HAP and their potential applicability to section 112.

Under this approach, the EPA would presumptively approve a State preconstruction program pursuant to section 112(l) to the extent that it would be used to meet criteria equivalent to those provided for in this proposal for notice of case-by-case MACT approvals. That is, EPA would, under section 112(l) authority, presume acceptance and use of this mechanism in conjunction with the approval of the part 70 program for a State, unless the State requests otherwise. Accordingly, in most States, no formal rulemaking pursuant to proposed Subpart E would be required. States working with this approach could then use the State's NSR permitting mechanism to develop appropriate limits under adequate procedures to meet the EPA's final rules to implement section 112(g).

The EPA requests comments on all aspects of the proposed approach to establishing workable section 112(g) procedures in the interim period before promulgation of the final section 112(g) rule and, in some cases, before requisite new authorities are obtained by State authorities. In particular, the EPA requests comments on the need for and appropriate maximum length of this interim period.

Finally, the EPA also requests comment on an alternative approach to facilitate implementation of section 112(g) requirements during this interim period. Under this approach, during this interim period only, the EPA would recognize any applicable limits that are State-enforceable as adequate to meet the requirements of the statute concerning section 112(g).

## VI. Administrative Requirements

### *A. Executive Order 12866*

A regulatory impact analysis (RIA) was prepared for the proposed regulation. The RIA was prepared under the guidelines outlined in Executive Order 12866 and submitted to the Office of Management and Budget (OMB) even though the proposed regulation is not expected to be "significant" as defined in the Order. The regulation is not expected to have an annual effect on the economy of $100 million or more; it is not expected to cause a major increase in costs or prices to society; and it is not expected to cause significant adverse effects on competition. The objective of the RIA is to evaluate the costs and benefits associated with the proposed regulation. A further objective of the RIA is to show that the proposed regulation will maximize net benefits to society.

It is difficult to address with precision the cost impacts of section 112(g) of the Act. The calculation of future impacts requires: (1) Data on the number of major sources of hazardous air pollutants in the United States, (2) predictions of the number of changes that would occur at these major sources that would trigger section 112(g), and (3) estimates of the average impacts each such change will experience if section 112(g) were to require early MACT controls and (4) estimates of the degree to which a typical construction, reconstruction or modification subject to section 112(g) would already be subject to a promulgated MACT standard or State and local requirement. Because great uncertainty exists in each of these areas, the RIA estimates for the various scenarios of section 112(g) approaches are intended to "bracket" the range of possible impacts, rather than to predict with precision the differences that may occur under various policy options.

The impacts (cost and emission reductions) of the section 112(g) program are assumed to begin in 1993 and increase as additional state agencies are subject to the program. Impacts are expected to extend to the year 2002.

The annual cost impacts are expected to reach a peak cost between 1995 and 1996 and decrease as more major sources become subject to Federal MACT standards issued under section 112(d). Scenario 1, which is used to illustrate a program with wide applicability and which creates little opportunity for obtaining offsets, would result in the greatest cost. Scenario 1 is estimated to result in an average annual cost of $96 million. Scenarios 2 and 3, involving intermediate coverage, would result in approximate annual control costs of $25 to $28 million, respectively. Scenario 4, which is used to illustrate a program with minimal coverage, would result in costs of about $9 million annually. These cost estimates do not include estimates of the opportunity cost associated with requiring approval of a proposed offset prior to operation and the pre-construction review requirements for case-by-case MACT determination. The EPA plans to develop a rough estimate of these costs in developing the final RIA, and solicits comments and quantitative information on the nature and magnitude of these costs. The scope and extent of analysis on these issues will be constrained by the EPA's budgetary limitations.

The absence of valuation and sufficient exposure-response information precludes a quantitative benefits analysis. However, there was an attempt made to determine the benefits that would be needed to justify general program directions. The EPA believes it is probable that the benefits of the proposed regulation are generally consistent with the predicted impacts.

The proposal identifies at several places key alternative options for implementing section 112(g). In developing a final rule, the EPA intends to analyze the costs and emission reductions associated with a few of the most important variables associated with these options. Examples of possible issues include costs associated with the alternative definitions of "construct," and opportunity costs of up-front reviews and offset restrictions. The EPA solicits comments on which such issues should be included, as well as comments and data on these issues that would support this analysis. The scope and extent of analysis on these issues will be constrained by the EPA's budgetary limitations.

### *B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the EPA to consider potential impacts of proposed regulations on small entities. If a preliminary analysis indicates that a proposed regulation would have a significant economic impact on a substantial number of small entities, then a regulatory flexibility analysis must be prepared.

The Regulatory Act guidelines applicable to the proposed regulation indicate that an economic impact should be considered significant if it meets one of the following criteria: (1) Compliance increases annual production costs by more than 5 percent, assuming costs are passed on to consumers; (2) compliance costs as a

percentage of sales for small entities are at least 10 percent more than compliance costs as a percentage of sales for large entities; (3) capital costs of compliance represent a "significant" portion of capital available to small entities, considering internal cash flow plus external financial capabilities; or (4) regulatory requirements are likely to result in closures of small entities. A substantial number of small entities is generally considered to be more than 20 percent of the small entities in the affected industry. An analysis was conducted to assess the economic impacts associated with the proposed regulation. Although the number of facilities affected by section 112(g) can be identified, information on the sizes of these facilities is unavailable. However, it is expected that the control cost each facility may face will be small compared to the average annual revenues in the industries affected by section 112(g). Therefore, it is not expected that the impacts of section 112(g) will be considered significant as defined above.

This regulation does not affect a significant number of small businesses, small governmental jurisdictions, or small institutions. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

*C. Paperwork Reduction Act*

The information collection requirements in this proposal have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An information collection request (ICR) document has been prepared by the EPA (ICR No. 1658.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch (PM–2234), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 or by calling (202) 260–2740.

The EPA prepared estimates of the average annual burden hours needed to collect and prepare information required under section 112(g) for each of the regulatory scenarios examined in preparing the Regulatory Impact Analysis (see discussion above). The burden estimates presented below are an accumulation of the estimated annual burden hours that would be experienced by industry respondents, state and local agencies, and EPA under the various regulatory scenarios.

The average annual burden-hours that would be required under Scenario 1, which was used to illustrate a wide-reaching program, is approximately 1,823,000 hours. Scenario 2 and 3, used to illustrate a program with intermediate coverage, would result in an average annual burden of approximately 460,000 and 390,000 hours, respectively. Scenario 4, a program with minimal coverage, would result in an average burden of approximately 228,000 hours. The estimates for Scenario 2 and 3 are probably the most consistent with the provisions of the proposed rule.

Send comments regarding these burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden to Chief, Information Policy Branch (PM–223Y); U.S. EPA, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

**VII. Suggest Format for Comments**

There are a relatively large number of issues for which the EPA is requesting comment on the proposed rule. Accordingly, the EPA expects a significant effort will be required in responding to those comments. The EPA would appreciate efforts by commenters to follow the general outline contained in Table 7. Additionally, the EPA would appreciate, if possible, that comments generated using a word processing software should be sent on a clearly labeled 3.5 inch IBM-compatible diskette. Comments formatted in WordPerfect 5.0 or 5.1 may be submitted as is; comments prepared by other word processing software should be submitted in an "unformatted" mode. Comments should refer to page numbers and columns whenever possible, and should cross-reference the issue number in Table 7.

*Statutory Authority*

The statutory authority for this proposal is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended; 42 U.S.C., 7401, 7412, 7414, 7416, and 7601.

TABLE 7.—SUGGESTED FORMAT FOR COMMENTS ON THE PROPOSED SECTION 112(G) RULE

| Topic and Issue No. | Citation in regulation | Citation in preamble | Issues |
|---|---|---|---|
| I. General Applicability Issues: | | | |
| 1 | | II.B.3 | Requirements for guidance under section 112(g). |
| 2 | 63.40(b) | III.A.2.a | Grandfathering of projects already underway. |
| 3 | 63.40(b) | III.A.2.b | SIC codes inclusion in definition of major source. |
| 4 | 63.40(c) | III.A.3 | Exclusion for Steam generating units. |
| II. Requirements for Constructed and Reconstructed Sources: | | | |
| 5 | 63.42 | III.C.2 | Definitions of constructed and reconstructed sources. |
| 6 | 63.42 | III.C.2 | Alternative readings of the Act regarding new equipment at an existing plant site. Preference for Alternative A vs. Alternative B. |
| 7 | 63.42 | III.C.2 | Whether definition of emission unit should be more prescriptive under Alternative A. |
| 8 | 63.42 | III.C.2 | Definition of "greenfield site". |
| 9 | 63.42 | III.C.2 | Whether Act would support a reading treating all new equipment at a major source plant site as "construction". |
| 10 | 63.42 | III.C.2 | Other possible definitions of "construct". |
| 11 | 63.42 | III.C.3 | Definition of reconstruct a major source. |
| III. Requirements for Modified Major Sources: | | | |
| 12 | 63.43(b)(3) | III.D.2 | "Modification" and emission points affected by the modification. |
| 13 | 63.43(b)(3) | III.D.2 | Other approaches to MACT coverage, including plant-wide coverage or subdividing plant site into major-emitting emission units. |

TABLE 7.—SUGGESTED FORMAT FOR COMMENTS ON THE PROPOSED SECTION 112(G) RULE—Continued

| Topic and Issue No. | Citation in regulation | Citation in preamble | Issues |
|---|---|---|---|
| 14 | 63.43(c)(1) through 63.43(c)(4) and 63.43(c)(7). | III.D.3 | Exclusion issues (except for alternative raw materials and operations). |
| 15 | 63.41, 63.43(c)(5) and (6). | III.D.3 | Definition of "Operations that the major source is designed to accommodate." Permit-allowable framework for raw material substitutions/alternative operating scenarios. |
| 16 | 63.43(c)(6) | III.D.3 | Whether operational changes allowed in State permits can be incorporated into Title V permits without triggering section 112(g). |
| 17 | 63.43(d) | III.D.4 | Proposed method for determining actual emissions. NSPS vs. PSD approach. |
| 18 | 63.43(e), 63.46 63.47. | III.D.4 | Whether offsetting should be restricted for VOC reductions used for control of ozone or credited under PSD/NSR. |
| 19 | 63.43(f) | III.D.5 | Proposed treatment of increases and decreases of the same pollutant. |
| IV. De Minimis Values: | | | |
| 20 | 63.44 | III.E.3(a) | Adjustment for 7-year exposure period, including specific alternatives. |
| 21 | 63.44 | III.E.3(a) | Model plant assumptions. |
| 22 | 63.44 | III.E.3(a) | Alternative approach involving 2 tables, to account for site-specific conditions. |
| 23 | 63.44 | III.E.3(a) | 10 ton cap on de minimis values. |
| 24 | 63.44 | III.E.3(a) | Default value of 1 ton/year de minimis for carcinogens with no potency estimate. |
| 25 | 63.44 | III.E.3(b) | Composite score approach to setting de minimis levels for threshold pollutants with no RfC. |
| 26 | 63.44 | III.E.3(b) | 5 tons/year default de minimis levels for pollutants lacking data. |
| 27 | 63.44 | III.E.3(c) | Methodology and values described in preamble for setting de minimis rates for pollutants to reflect concerns regarding short-term exposure. |
| 28 | 63.44 | III.E.4 | Cap of 0.01 tons per year for Great Waters pollutants; other alternatives such as 0.1 tons per year or 10% of health-based values. |
| 29 | 63.44 | III.E.4 | Proposed approach to de minimis level determination for polycyclic organic matter (POM). |
| 30 | 63.44 | III.E.4 | Comment on treatment of POM under section 112(k) and section 112(c)(6). |
| 31 | 63.44 | III.E.6 | One significant figures approach vs. alternative "binning" of de minimis values. |
| 32 | 63.44 | III.E.6 | Whether the de minimis definition should consider a specified concentration in a product or mixture. |
| 33 | 63.44 | III.E.7 | Concept of de minimis index for addition of assessing contribution of multiple pollutants toward a de minimis level. |
| 34 | 63.44 | III.E.9 | De minimis levels for radionuclides. |
| V. MACT Determinations: | | | |
| 35 | 63.41 | III.B.8 | Inclusion of additional emission points in the definition of "MACT-affected emission unit". |
| 36 | 63.45(b)(2) and 63.45(f). | III.F.1 | Process outlined in Figure 7 pertaining to 112(g) requirements after MACT standard is issued. Notification requirements; alternative requirements, e.g. 30–60 days before startup. |
| 37 | 63.45 | III.F.2 | Legal reading of the act regarding preconstruction review of MACT determinations. |
| 38 | 63.45 | III.F.2 | Alternative approach requiring pre-operation review. |
| 39 | 63.45 | III.F.3 | MACT floor determination. Inclusion of sources outside the U.S. |
| 40 | 63.45, MACT Guidelines. | III.F.3 | Treatment of MACT floor in the regulation, including suggested methods in MACT guidelines document. |
| 41 | 63.45 | III.F.3 | Design and use of MACT Database; feasibility of reliance on data base for MACT floor information. |
| 42 | 63.45 | III.F.3 | Cut-off date for "available information." |
| 43 | 63.45 | III.F.4 | Approaches to subcategorization. |
| 44 | 63.45 | III.F.6 | Relationship between Title III and Title V, particularly whether section 112(g) requirements can be added to the permit post-operation. |
| 45 | 63.45(i) | III.F.8 | Public review as a prerequisite to federal enforceability of case-by-case MACT determinations. |
| 46 | 63.45(g)(7) | III.F.8 | Use of section 112(l) to approve alternative State administrative requirements for review of case-by-case MACT determinations. |
| 47 | 63.45(h) | III.F.9 | Whether MACT approval should expire if failure to construct occurs after 18 months. |
| VII. Offset Demonstrations: | | | |
| 48 | 63.47 | III.G.2 | Restriction on shutdowns and curtailments in simplified offset demonstration. |
| 49 | 63.46, 63.47 | III.G.2 | Requirement for pre-operation review of offsets. Alternative approaching allowing for review post-operation. |

TABLE 7.—SUGGESTED FORMAT FOR COMMENTS ON THE PROPOSED SECTION 112(G) RULE—Continued

| Topic and Issue No. | Citation in regulation | Citation in preamble | Issues |
|---|---|---|---|
| 50 | 63.46, 63.47 | III.G.2(c) | General comments on the two approaches "contemporaneous" and "simplified" including whether one ought not be included in the final rule. |
| 51 | 63.46, 63.47 | III.G.3 | Whether offset determinations should comply with certain provisions in 40 CFR part 70 or enhanced monitoring provisions pursuant to section 114 of the Act. |
| 52 | 63.46, 63.47 | III.G.3 | Additional language to facilitate consideration of source reduction programs. |
| 53 | 63.49 | III.H | Compliance extension for emission units subject to subsequent MACT standards. Also, whether section 112(g) MACT is sufficient for subsequent section 112(j) requirements. |
| VIII. Proposed Approach for Demonstrating That Offsets Are "More Hazardous": | | | |
| 54 | 63.48 | IV.A | Two alternative readings of section 112(g)(1)(A). More hazardous "pollutant" vs. more hazardous "quantity." |
| 55 | 63.48 | IV.B | Whether overall approach to offsetting restrictions strikes an appropriate balance given legal, policy, scientific and practical considerations. |
| 56 | 63.48 | IV.C.1 | Creation of the "high-concern" category of pollutants. |
| 57 | 63.48 | IV.C.2 | Relative hazard between categories of pollutants. |
| 58 | 63.48 | IV.C.3(a) | Other endpoints and pollutants which qualify a pollutant to be considered "non-threshold". |
| 59 | 63.48 | IV.C.4(b) | Use of ED10 as a potency estimate for carcinogens in the hazard ranking. |
| 60 | 63.48 | IV.C.4(b) | Treatment of carcinogens without potency estimates with regard to relative hazard ranking. |
| 61 | 63.48 | 1V.C.5.(b) | Matrix approach to the hazard ranking. |
| 62 | 63.48 | IV.C.6.(b) | Methodologies that could be used to identify and rank pollutants of concern for severe toxicity from short-term exposures. |
| 63 | 63.48 | IV.C.7 | Treatment of "unrankable" pollutants. |
| 64 | 63.48 | IV.C.8 | Treatment of the 17 HAPs listed under section 112(b) as chemical groupings. Selection of subgroupings included in the ranking. Methodology for ranking them. |
| 65 | 63.48 | IV.D.1(a) | Relative hazard determination between carcinogens: treatment of uncertainty of potency estimates. |
| 66 | 63.48 | IV.D.1(b) | Potential hazard reduction when a group A carcinogen is offset by a group C carcinogen of higher potency. |
| 67 | 63.48(b) | IV.D.2 | Treatment and consideration of uncertainty in composite score determination of relative hazard. |
| IX. Other Hazard Ranking Issues: | | | |
| 68 | | IV.G.1 | Consideration of non-inhalation hazard from hazardous air pollutants. |
| 69 | | IV.G.1 | How to consider explicitly information on bioconcentration and persistence to place threshold pollutants into the "high-concern" pollutant list and apply further offsetting restrictions. |
| 70 | | IV.G.2 | Half-life consideration in the hazard ranking. |
| 71 | | IV.G.2 | Treatment of reactive transformation products of hazardous air pollutants. |
| 72 | | IV.G.3 | Appeal process to address errors in a potential offset. |
| 73 | | IV.G.4 | Treatment of non-cancer effects of carcinogens: possible approaches. |
| 74 | | IV.G.4 | Comment on taking the spectrum of health effects directly into account for offset determinations and the policy and scientific options considered when little or no health effects data are available. |
| 75 | | IV.G.5 | Development of scientifically defensible system of weighted offsets. |
| 76 | | IV.G.5 | Approaches for providing updates to the ranking. |
| X. Discussion of the Relationship of the Proposed Requirements to Other Parts of the Act: | | | |
| 77 | | V.A | Relationship of Section 112(g) implementation to Title V program approval. |
| 78 | | V.B | Whether a State program deleting offsets could be considered an adjustment under section 112(l) of the act and added to 40 CFR 63.92. |
| 79 | | V.B | Whether, in States with existing State rules which would make offsets unusable, that program can be approved under section 112(l) without offsets. |
| 80 | | V.D | Relationship between 112(g), 112(d) and 112(j). |
| 81 | | V.E | General provisions: additions to them in 112(g) rule. |
| 82 | | V.F | Possibility for States to issue specialty title V permits specific to section 112(g) actions. |
| 83 | | V.F | 112(g) procedure in the interim period before promulgation of the final section 112(g) rule: need for and appropriate maximum length of the interim period. |
| 84 | | V.F | Feasibility of approaches described for implementation of section 112(g) requirements during interim period. |

TABLE 7.—SUGGESTED FORMAT FOR COMMENTS ON THE PROPOSED SECTION 112(G) RULE—Continued

| Topic and Issue No. | Citation in regulation | Citation in preamble | Issues |
|---|---|---|---|
| XI. Analysis Relative to Federal Administrative Requirements: | | | |
| 85 | | VI.A | Comments on regulatory impact analysis, including any additional analysis that could be prepared for the final rule. |
| 86 | | VI.C | Comments relative to paperwork reduction act, including comments on burden analysis. |

**List of Subjects**

*40 CFR Part 63*

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

*40 CFR Part 70*

Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: February 28, 1994.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 94–7241 Filed 3–31–94; 8:45 am]

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Friday
April 1, 1994

Part III

# Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Notice of Funding Availability for the Public and Indian Housing Drug Elimination Program; Fiscal Year 1994; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-94-3737; FR-3659-N-01]

### NOFA for the Public and Indian Housing Drug Elimination Program (PHDEP)—FY-1994

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing.

**ACTION:** Notice of funding availability (NOFA) for Fiscal Year (FY) 1994.

**SUMMARY:** This NOFA announces HUD's FY 1994 funding of $231,978,631 under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in eliminating drug-related crime. Funded programs must be part of a comprehensive plan for addressing the problem of drug-related crime. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results. Hereafter, the term housing authority (HA) shall include public housing agencies (PHAs) and Indian housing authorities (IHAs).

**DATES:** Applications must be received at the local HUD Field Office on or before Friday, July 29, 1994, at 3:30 p.m., local time. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems. A FAX is not acceptable.

**ADDRESSES:** *(a) Application Kit:* An application kit may be obtained and assistance provided, from the local HUD Category A or other Field Office with delegated public housing responsibilities over an applying PHA, or from the Offices of Native American Programs (ONAPs) having jurisdiction over an IHA making an application, or by calling HUD's Resident Initiatives Clearinghouse, telephone: 1-800-578-3472 (DISC). The application package contains information on all exhibits and certifications required under this NOFA.

*(b) Application Submission:* An applicant may submit only one application per housing authority under each Notice of Funding Availability (NOFA). Joint applications are not permitted under this program with the following exception: housing authorities (HA) under a single administration (such as housing authorities managing another housing authority under contract or housing authorities sharing a common executive director) may submit a single application, even through each housing authority has its own operating budget. Applications (original and two copies) must be received by the deadline at the local HUD Category A or B Field Office other Field Office with delegated public housing responsibilities over the applying PHA Attention: Director, Public Housing Division or, in the case of IHAs, to the local HUD Field Office of Native American Programs, Attention: Administrator, Native American Programs with jurisdiction over the applying IHAs, as appropriate. A complete listing of these offices is provided in appendix "A" of this NOFA. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

**FOR FURTHER INFORMATION ON THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM, PUBLIC HOUSING, CONTACT:** The local HUD Category A or B Field Office, Public Housing Division (See appendix "A" of this NOFA), or Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

**FOR FURTHER INFORMATION ON THE PUBLIC AND INDIAN HOUSING DRUG ELIMINATION PROGRAM FOR NATIVE AMERICAN PROGRAMS CONTACT:** The local HUD Category A or B Field Office, Administrator, Office of Native Americans (See appendix "A" of this NOFA), or Dominic Nessi, Director, Office of Native American Programs, Public and Indian Housing, Department of Housing and Urban Development, room 4140, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1015. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

**FOR FURTHER INFORMATION REGARDING ASSISTED (NON-PUBLIC AND INDIAN) HOUSING DRUG ELIMINATION PROGRAM CONTACT:** Lessley Wiles, Office of Multifamily Housing Management, Department of Housing and Urban Development, room 6166, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-0216. TDD number (202) 708-4594. (These are not toll-free numbers.) The NOFA for Federally Assisted Low Income Housing Drug Elimination Grants for FY 1994 was published in the **Federal Register** Thursday, January 20, 1994.

**SUPPLEMENTARY INFORMATION:**

#### Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and have been assigned OMB control number 2577-0124, expiration date November 30, 1995.

#### Environmental Review

Grants under this program are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) in accordance with 24 CFR 50.20(p). However, prior to an award of grant funds, HUD will perform an environmental review to the extent required by HUD's environmental regulations at 24 CFR part 50, including the applicable related authorities at 24 CFR 50.4.

#### Coordination of Anti-Crime Efforts

To coordinate anti-crime related activities across local, State, and Federal levels for the purpose of maximizing their effectiveness, applicants are encouraged to contact, and work with, such programs as Operation Weed and Seed and Operation Safe Home, described below.

Operation Weed and Seed, conducted through the U.S. Department of Justice, is a comprehensive, multi-agency approach to combatting violent crime, drug use, and gang activity in high-crime neighborhoods. The goal is to "weed out" crime from targeted neighborhoods and then to "seed" the targeted sites with a wide range of crime and drug prevention programs, and human services agency resources to prevent crime from reoccurring. Operation Weed and Seed further emphasizes the importance of community involvement in combatting drugs and violent crime. Community residents need to be empowered to assist in solving crime-related problems

in their neighborhoods. In addition, the private sector needs to get involved in reducing crime. All of these entities, Federal, State, and local government, the community and the private sector must work together in partnership to create a safer, drug-free environment.

The Weed and Seed strategy involves four basic elements:

1. Law enforcement must "weed out" the most violent offenders by coordinating and integrating the efforts of Federal, State, and local law enforcement agencies in targeted high-crime neighborhoods. No social program or community activity can flourish in an atmosphere poisoned by violent crime and drug abuse.

2. Local police departments should implement community policing in each of the targeted sites. Under community policing, law enforcement works closely with residents of the community to develop solutions to the problems of violent and drug-related crime. Community policing serves as a "bridge" between the "weeding" (law enforcement) and "seeding" (neighborhood revitalization) components.

3. After the "weeding" takes place, law enforcement and social services agencies, the private sector, and the community must work to prevent crime and violence from reoccurring by concentrating a broad array of human services—drug and crime prevention programs, drug treatment, educational opportunities, family services, and recreational activities—in the targeted sites to create an environment where crime cannot thrive.

4. Federal, State, local, and private sector resources must focus on revitalizing distressed neighborhoods through economic development and must provide economic opportunities for residents.

For further information on Operation Weed and Seed, contact the Office of Planning Management and Budget, Office of Justice Programs, U.S. Department of Justice, 366 Indiana Avenue, NW., Washington, DC, 20531. Telephone (202) 307–5966.

Operation Safe Home was announced jointly by Vice President Albert Gore, HUD Secretary Henry G. Cisneros, Treasury Secretary Lloyd Bentsen, Attorney General Janet Reno, and ONDCP Director Dr. Lee Brown at a White House briefing on February 4, 1994. Operation Safe Home will combat violent crime in public housing through tightly coordinated law enforcement and crime prevention operations at targeted sites; federal initiatives and policies to strengthen law enforcement and crime and drug prevention in public housing; and improved consultation and coordination between HUD and federal law enforcement agencies and ONDCP on design and implementation of HUD crime-prevention initiatives. For more information on Operation Safe Home, contact the Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

**I. Purpose and Substantive Description**

*(a) Authority*

These grants are authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et seq.*), as amended by Section 581 of the National Affordable Housing Act of 1990 (NAHA), approved November 28, 1990, Public Law 101–625, and Section 161 of the Housing and Community Development Act of 1992 (HCDA 1992) (Public Law 102–550, approved October 28, 1992).

*(b) Allocation Amounts*

(1) Federal Fiscal Year 1994 Funding

The amount available, to remain available until expended, for funding under this NOFA in FY 1994 is $231,978,631. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1993, (approved October 28, 1993, Pub. L. 103–124), (94 App. Act) appropriated $265 million for the Drug Elimination Program and made not more than $198,750,000 of the total Drug Elimination Program appropriation available for grants to housing authorities with 1,250 public housing units or more, and not more than $53,000,000 of the total Drug Elimination Program appropriation available for grants to housing authorities with less than 1,250 public housing units. Of the total $265 million appropriated, $13,250,000 will fund the Youth Sports Program; $12,306,000 will fund the Assisted Housing Drug Elimination Program; $5 million will fund drug elimination technical assistance and training; and $1,162,000 will fund drug information clearinghouse services. A total of $249,498 is being awarded to the Lake County, IL Housing Authority that did not receive FY 1993 funding because of a computational error and due to statistical anomaly the Department will allow the funding of the following FY 1993 applications from Greenwich, CT ($127,786); Bristol, CT ($249,843); and New Haven, CT ($706.600). The remaining $231,948,273 of FY 1994 funds are being made available under this NOFA. In addition, $30,358 of recovered FY 1993 program funds are also being made available under this NOFA for a total of $231,978,631.

HUD is distributing grant funds under this NOFA on a national competition basis with $178,978,631 available for large housing authorities (1,250 units and above) and $53,000,000 available for smaller housing authorities (1,249 units and less).

(2) Maximum Grant Award Amounts

Maximum grant award amounts are computed on a sliding scale, using an overall maximum cap, depending upon the number of public housing agency or Indian housing authority units. The unit count includes rental, Turnkey III Homeownership, Mutual Help Homeownership and Section 23 leased housing bond-financed projects. Units in the Turnkey III Homeownership and Mutual Help programs are counted if they have not been conveyed to the homebuyers prior to the application deadline in this NOFA. For Section 23 bond-finance projects, units are counted if they have not been conveyed or will not be conveyed with clear title to the HA until the end of the bond term.

Eligible projects must be covered by an annual contributions contract (ACC) or annual operating agreement (AOA) during the period of the grant award. Unit counts will be taken from the HA low-rent operating budget (form HUD–52564) for the HA fiscal year ending March 31, June 30, September 30, or December 31, 1993.

Amendments to the Drug Elimination Program made by the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992), permit grants, under certain conditions as given in section (c)(9) of this NOFA, below, to be used to eliminate drug-related crime in housing owned by PHAs that is not housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted. Where an application is submitted for this category of housing, the amount of eligible funding will be determined on the same per-unit basis as for federally assisted housing units, above.

The maximum grant awards are as follows, although, as discussed below, in section I.(b)(4) (Reduction of Requested Grant Amounts and Special

Conditions), the Department may adjust the amount of any grant award:

Up to $53,000,000 for Drug Elimination grants is available to housing authorities with less than 1,250 housing units as follows:

For housing authorities with 1–1,249 units: The award will be $300 per unit, with a minimum grant award of $10,000, and a maximum grant award of $300,000.

To give examples under this scale, a housing authority with 499 units could apply for a maximum grant award of $149,700, i.e., $300.00 per unit X 499 units = $149,700, which is LESS THAN the maximum flat grant award of $300,000. A housing authority with 1,100 units could only apply for a maximum grant award of $300,000, i.e., $300.00 per unit X 1,100 units = $330,000, which is MORE THAN the maximum flat grant award of $300,000.

Up to $178,978,631 Drug Elimination grants is available to housing authorities with 1,250 or more housing units as follows:

For housing authorities above 1,250 units: the maximum grant award that may be requested is $250.00 per unit.

An applicant shall not apply for more funding than is permitted in accordance with the maximum grant award amount as described above.

Any application requesting funding that exceeds the maximum grant award amount permitted will be rejected and will not be eligible for any funding unless a computational error was involved in the funding request. Section IV of this NOFA provides guidance regarding application curable and noncurable deficiencies.

Such an error will be considered a curable deficiency in the application. Section III.(d) (Checklist of Application Requirements) of this NOFA requires applicants to compute the maximum grant award amount for which they are eligible, as follows: Eligible dollar amount per unit x (times) number of units listed in the housing authority low-rent operating budget (form HUD–52564) for housing authority fiscal year ending March 31, June 30, September 30, or December 31, 1993. The applicant is required to confirm the unit count with the local HUD Field Office prior to submission of the application.

The amount computed in this way must be compared with the dollar amount requested in the application to make certain the amount requested does not exceed the maximum grant award.

(3) Reallocation

All awards will be made to fund fully an application, except as provided in paragraph I.(b)(4) (Reduction of Requested Grant Amounts and Special Conditions) below.

(4) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, withhold funds after approval, and/or the grantee will be required to comply with special conditions added to the grant agreement, in accordance with 24 CFR part 85.12 (PHAs), and 24 CFR 905.135 (IHAs) as applicable, and the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) The application does not otherwise meet applicable cost limitations established for the program;

(iii) The applicant has requested an ineligible activity;

(iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(v) The applicant fails to implement the program in its plan and/or fails to submit required reports;

(vi) The applicant has demonstrated an inability to manage HUD grants, particularly Drug Elimination Program grants; or

(vii) For any other reason where good cause exists.

*(c) Eligibility*

Funding under this NOFA is available only for Public Housing Agencies and Indian Housing Authorities. Although section 161 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) makes public housing resident management corporations (RMCs) eligible for Drug Elimination Program funding, the 93 App. Act limited the funds appropriated "for grants to public housing agencies". The authorizing statute includes Indian housing authorities (IHAs) in the term "public housing agencies" and, therefore, IHAs are eligible for funding. Because RMCs, unlike IHAs, constitute a separate entity from PHAs under the authorizing statute, no funds are appropriated for RMCs as direct applicants under the 94 App. Act. However, RMCs may continue to receive funding from housing authority grantees to develop security and drug abuse prevention programs involving site residents as they have in the past.

An application for funding under this program may be for one or more of the following eligible activities. An applicant may submit only one application under this Notice of Funding Availability (NOFA). Joint applications are not permitted under this program with the following exception: Housing authorities (HA) under a single administration (such as housing authorities managing other housing authorities under contract or housing authorities sharing a common executive director) may submit a single application, even though each housing authority has its own operating budget. The following is a listing of eligible activities under this program and guidance as to their parameters:

(1) Employment of Security Personnel

(i) *Contracted security guard personnel.* Contracting for security guard personnel services, in public housing developments proposed for funding is permitted under this program.

(A) Contracted security personnel funded by this program must perform services not usually performed by local law enforcement agencies on a routine basis, such as, patrolling inside buildings, providing guard services at building entrances to check for identification cards (IDs), or patrolling and checking car parking lots for appropriate parking decals.

(B) Contract security personnel funded by this program must meet all relevant tribal, State or local government insurance, licensing, certification, training, bonding, or other similar requirements.

(C) The applicant, the cooperating local law enforcement agency, and the provider (contractor) of the security personnel are required to enter into and execute a security personnel contract that includes the following:

(*1*) The activities to be performed by the security personnel, their scope of authority, established policies, procedures, and practices that will govern their performance (i.e., a Policy Manual as described in section I.(c)(1)(i)(D)) and how they will coordinate their activities with the local law enforcement agency;

(*2*) The types of activities that the security personnel are expressly prohibited from undertaking.

(*3*) Expenditures for activities under this section may not be incurred until the grantee has executed a contract for security guard services.

(D) Security guard personnel funded under this program shall be guided by a policy manual (see below) that regulates, directs, and controls the conduct and activities of its personnel. All security personnel must be trained

at a minimum in the areas described below in paragraph (2) of this section.

(1) An up-to-date policy manual, which contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed, must exist or be completed before a contract for services can be executed.

(2) Examples of areas that must be covered in the manual include but are not limited to: Use of force, resident contacts, response criteria to calls, pursuits, arrest procedures, reporting of crimes and workload, feedback procedures to victims, citizens complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, record keeping and position descriptions on every post and assignment.

(E) If the contractor collects officer activity information (which the Department recommends) for the housing authority, the contractor must use a housing authority approved activity form for the collection, analysis and reporting of activities by officers funded under this section. Computers and software may be included as an eligible item in support of this housing authority data collection activity.

(ii) *Employment of housing authority police.* Employment of additional HA police officers is permitted only by housing authorities that already have their own housing authority police departments, which are the following:

Baltimore HA and Community Development, Baltimore, MD
Boston HA, Boston, MA
Chicago HA, Chicago, IL
Cuyahoga Metropolitan HA, Cleveland, OH
HA of the City of Los Angeles, LA, CA
Newark HA, Newark, NJ
New York City Department of Housing Preservation and Development, NYC, NY
HA of the City of Oakland, Oakland, CA
Philadelphia HA, Philadelphia, PA
HA of the City of Pittsburgh, Pittsburgh, PA

HAs that have their own housing authority police departments, but that are not included on this list, must contact the Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, room 4116, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1197 to request approval before they may apply for funding under this paragraph.

(A) If additional HA police officers are to be employed for a service that is also provided by a local law enforcement agency, the applicant must provide a cost analysis that demonstrates the employment of additional HA police officers is more cost efficient than obtaining the service from the local law enforcement agency.

(B) Additional HA police officers to be funded under this program must be an increase in the number of HA police officers authorized by the housing authority, although such additional HA police officers funded under a prior Drug Elimination Program Grant may qualify for funding as a continuing activity under section I.(c)(8) (Continuation of Current Program Activities) of this NOFA.

(C) An applicant seeking funding for this activity must describe the baseline services by describing the current level of services provided by the local law enforcement agency and then demonstrate to what extent the additional HA police officers will represent an increase over these services. For purposes of this NOFA, the current level of services is defined as ordinary and routine services provided or required to be provided under a cooperation agreement to the residents of public housing developments as a part of the overall, city and county-wide deployment of police resources, to respond to crime and other public safety incidents. These include the number of officers and equipment and the actual percent of their time assigned to the developments proposed for funding, and the kinds of services provided, e.g., 9–1–1 communications, processing calls for service, and investigative follow-up of criminal activity.

(D) HA police funded by this program must meet all relevant tribal, state or local government insurance, licensing, certification, training, bonding, or other similar requirements.

(E) The applicant and the cooperating local law enforcement agency are required to enter into and execute a contract that describes the following:

(1) The activities to be performed by the HA police, their scope of authority, established policies, procedures, and practices that will govern their performance (i.e., a Policy Manual as described in section I.(c)(1)(ii)(F)), and how they will coordinate their activities with the local, state and Federal law enforcement agencies;

(2) The types of activities that the HA police are expressly prohibited from undertaking.

(F) HA police departments funded under this program shall be guided by a policy manual (see below) that regulates, directs, and controls the conduct and activities of its personnel. All HA police officers must be trained at a minimum in the areas described in paragraph (2), below.

(1) An up-to-date policy manual, which contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed, must either exist or be completed within 12 months of the execution of the grant agreement. Applicants must submit a plan and timetable for the implementation of training staff.

(2) Examples of areas that must be covered in the manual include but are not limited to: Use of force, resident contacts, response criteria to calls, pursuits, arrest procedures, prisoner transport procedures, reporting of crimes and workload, feedback procedures to victims, citizens complaint procedures, internal affairs investigations, towing of vehicle, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, record keeping and position descriptions on every post and assignment.

(G) If the HA police department collects officer activity information (which the Department recommends), a housing authority approved activity form must be used for the collection, analysis and reporting of activities by officers funded under this section. Computers and software may be included as an eligible item in support of this housing authority data collection activity.

(H) Applicants for funding of additional HA police officers must have car-to-car (or other vehicles) and portable-to-portable radio communications links between HA police officers and local law enforcement officers to assure a coordinated and safe response to crimes or calls for services. The use of scanners (radio monitors) is not sufficient to meet the requirements of this section. Applicants that do not have such links must submit a plan and timetable for the implementation of such communications links.

(I) HA police departments funded under this program that are not employing a community policing concept must submit a plan and timetable for the implementation of community policing.

(1) Community policing has a variety of definitions; however, for the purposes of this program, it is defined as follows: Community policing is a method of providing law enforcement services that stresses a partnership among residents,

police, government services, the private sector, and other local, state and Federal law enforcement agencies to prevent crime by addressing the conditions and problems that lead to criminal activity and the fear of this type of activity.

(2) This method of policing involves a philosophy of proactive measures, such as foot patrols, bicycle patrols, and citizen contacts. This concept empowers police officers at the beat and zone level and residents in neighborhoods in an effort to: reduce crime and fear of crime; assure the maintenance of order; provide referrals of residents, victims, and the homeless to social services and government agencies; assure feedback of police actions to victims of crime; and promote a law enforcement value system on the needs and rights of residents.

(J) HA police departments funded under this program that are not nationally or state accredited must submit a plan and timetable that may not exceed 24 months for such accreditation. Housing authorities may use either their state accreditation program, if one exists, or the Commission on Accreditation for Law Enforcement Agencies (CALEA) for this purpose.

(1) The law enforcement community developed a body of standards in 1981 against which law enforcement agencies could be evaluated. While some states have their own law enforcement accreditation program, the nationwide accreditation program is managed by the CALEA, which is located in Fairfax, VA. The purpose of accreditation is to reduce liability exposure of agencies and personnel, and to assure that law enforcement agencies meet a uniform body of standards.

(2) The accreditation concept emphasizes a voluntary, self-motivated approach by which organizations seek to achieve and maintain objectively verified high quality operations through periodic evaluations conducted by an independent, non-governmental body that has established standards for its "clientele". In simple terms, "to accredit" means to recognize or vouch for an agency as conforming to a body of standards related to a specific discipline—in this instance, law enforcement.

(3) The process for CALEA consists of formal application, mutual aid contract, an in-depth self assessment, an on-site assessment by Commission-selected practitioner assessors from outside the state of the requesting agency, and final Commission review and decision. Self-assessment enables an agency to establish proofs of compliance with standards specific to the agency to review its organization, management, operations, and administrative activities to determine if it believes it meets the requirements. Certain standards are mandatory based on health, life, safety, and importance to the community and the agency.

(4) Use of grant funds for accreditation activities is permitted.

(K) Expenditures for activities under this section may not be incurred until the grantee has met all the above requirements. In order to assist housing authorities to develop and administer relevant, fair, and productive contracts with local law enforcement agencies for the delivery of effective services to public housing residents, a sample contract for law enforcement services is provided with the application kit.

(2) Reimbursement of Local Law Enforcement Agencies for Additional Security and Protective Services

(i) Additional security and protective services to be funded under this program must be over and above the baseline services, as defined below, that the tribal, State or local government provides to applying HA.

(A) An applicant seeking funding for this activity must first establish a baseline by describing the current level of services (in terms of the kinds of services provided, the number of officers and equipment and the actual percent of their time assigned to the developments proposed for funding) and then demonstrate to what extent the funded activity will represent an increase over this baseline.

Baseline services are defined as those law enforcement services the locality is contractually obligated to provide under its Cooperation Agreement with the applying HA (as required by the HA's Annual Contributions Contract).

(ii) Communications and security equipment to improve the collection, analysis, and use of information about drug-related criminal activities in a public housing community, such as surveillance equipment (e.g., Closed Circuit Television (CCTV), software, cameras, monitors, components and supporting equipment), computers accessing national, tribal, State or local government security networks and databases, facsimile machines, telephone equipment, bicycles, and motor scooters may be eligible items if used exclusively in connection with the establishment of a law enforcement substation on the funded premises or scattered site developments of the HA.

(iii) If the local law enforcement agency collects officer activity information (which the Department recommends) for the housing authority, it must use a housing authority approved activity form for the collection, analysis and reporting of activities by officers funded under this section. Computers and software may be included as an eligible item in support of this housing authority data collection activity.

(iv) The Department encourages housing authorities that are funded under this program to promote the implementation of community policing. For additional background on community policing, see the discussion at section I.(c)(1)(ii)(I), above.

(v) Expenditures for activities under this section may not be incurred until the grantee and the local law enforcement agency execute a contract for the additional law enforcement services. In order to assist housing authorities to develop and administer relevant, fair, and productive contracts with local law enforcement agencies for the delivery of effective services to public and Indian housing residents a sample contract for law enforcement services is provided with the application kit.

(3) Physical Improvements to Enhance Security

(i) Physical improvements that are specifically designed to enhance security are permitted under this program. These improvements may include (but are not limited to) the installation of barriers, lighting systems, fences, surveillance equipment (e.g., Closed Circuit Television (CCTV), software, cameras, monitors, components and supporting equipment) bolts, locks; the landscaping or reconfiguration of common areas so as to discourage drug-related crime; and other physical improvements in public housing developments that are designed to enhance security and discourage drug-related activities.

(ii) An activity that is funded under any other HUD program, such as the modernization program at 24 CFR part 968, shall not also be funded by this program.

(iii) Funding is not permitted for physical improvements that involve the demolition of any units in a development.

(iv) Funding is not permitted for any physical improvements that would result in the displacement of persons.

(v) Funding is not permitted for the acquisition of real property.

(vi) All physical improvements must also be accessible to persons with disabilities. For example, some types of locks, buzzer systems, doors, etc., are not accessible to persons with limited strength, mobility, or to persons who are

hearing impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(4) Employment of Investigators

(i) Employment of one or more individuals is permitted under this program to:

(A) Investigate drug-related crime in or around the real property comprising any public housing development; and

(B) Provide evidence relating to any such crime in any administrative or judicial proceedings.

(ii) Investigators funded by this program must meet all relevant tribal, State or local government insurance, licensing, certification, training, bonding, or other similar requirements.

(iii) The applicant, the cooperating local law enforcement agency, and the investigator(s) are required, before any investigators are employed, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the investigators, their scope of authority, established policies, procedures, and practices that will govern their performance (i.e., a Policy Manual as described in section I.(c)(4)(v), below) and how they will coordinate their activities with the local, state and Federal law enforcement agencies; and

(B) The types of activities that the investigators are expressly prohibited from undertaking.

(iv) Under this section, reimbursable costs associated with the investigation of drug-related crime (e.g., travel directly related to the investigator's activities, or costs associated with the investigator's testimony at judicial or administrative proceedings) may only be those incurred by the investigator.

(v) Investigators funded under this program shall be guided by a policy manual (see below) that regulates, directs, and controls their conduct and activities. All investigators must be trained at a minimum in the areas described below in paragraph (B) of this section".

(A) An up-to-date policy manual, which contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed, must either exist or be completed within 12 months of the execution of the grant agreement. Applicants must submit a plan and timetable for the implementation of training staff.

(B) Examples of areas that must be covered in the manual include but are not limited to: use of force, resident contacts, response criteria to calls, pursuits, arrest procedures, reporting of crimes and workload, feedback procedures to victims, citizens complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, record keeping and position descriptions on every post and assignment.

(vi) If an investigator collects investigator activity information (which the Department recommends) for the housing authority, a housing authority approved activity form must be used for the collection, analysis and reporting of activities by investigators funded under this section. Computers and software may be included as an eligible item in support of this housing authority data collection activity.

(vii) Expenditures for activities under this section may not be incurred until the grantee has met all the above requirements.

(5) Voluntary Tenant Patrols

(i) The provision of training, communications equipment, and other related equipment (including uniforms), for use by voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies is permitted under this program. Members must be volunteers and must be tenants of the development that the tenant (resident) patrol represents. Patrols established under this program are expected to patrol for drug-related criminal activity in the developments proposed for assistance, and to report these activities to the cooperating local law enforcement agency and relevant tribal, State and Federal agencies, as appropriate. Grantees are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol under this program. The cost of this insurance will be considered an eligible program expense.

(ii) The applicant, the cooperating local law enforcement agency, and the members of the tenant patrol are required, before putting the tenant patrol into effect and expending any grant funds, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the tenant patrol, the patrol's scope of authority, the established policies, procedures, and practices that will govern the tenant patrol's performance and how the patrol will coordinate its activities with the local law enforcement agency;

(B) The types of activities that a tenant patrol is expressly prohibited from undertaking, to include but not limited to, the carrying or use of firearms or other weapons, nightstick, clubs, handcuffs, or mace in the course of their duties under this program;

(C) Initial tenant patrol training and continuing training the members receive from the local law enforcement agency (training by the local law enforcement agency is required before putting the tenant patrol into effect); and

(D) Tenant patrol members must be advised that they may be subject to individual or collective liability for any actions undertaken outside the scope of their authority and that such acts are not covered under a HA's liability insurance.

(iii) Communication and related equipment eligible for funding under this program shall be equipment that is reasonable, necessary, justified and related to the operation of the tenant patrol and that is otherwise permissible under tribal, State or local law.

(iv) Under this program, bicycles, motor scooters and uniforms (caps and other all seasonal clothing items that identify voluntary tenant patrol members, including patrol t-shirts and jackets) to be used by the members of the tenant patrol are eligible items.

(v) Drug elimination grant funds may not be used for any type of financial compensation, such as any full-time wages or salaries for voluntary tenant patrol participants.

(6) Programs To Reduce the Use of Drugs

Programs that reduce the use of drugs in and around the premises of public housing developments, including drug abuse prevention, intervention, referral and treatment programs are permitted under this program. The program should facilitate drug prevention, intervention and treatment efforts, to include outreach to community resources and youth activities, and facilitate bringing these resources onto the premises, or providing resident referrals to treatment programs or transportation to out-patient treatment programs away from the premises. Funding is permitted for reasonable, necessary and justified purchasing or leasing of vehicles (whichever can be documented as the most cost effective) for resident youth and adult education and training activities directly related to "Programs to reduce the use of drugs" under this section. Alcohol-related activities/programs are not eligible for funding under this program.

(i) *Drug prevention.* Drug prevention programs that will be considered for funding under this part must provide a comprehensive drug prevention approach for public housing residents that will address the individual resident and his or her relationship to family, peers, and the community. Prevention programs must include activities designed to identify and change the factors present in public housing that lead to drug-related problems, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug-related family counseling, may already be available in the community of the applicant's housing developments, and the applicant must act to bring those available program components onto the premises. Funding is permitted for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred only for training and education activities directly related to "drug prevention programs". Activities that should be included in these programs are:

(A) Drug education opportunities for public housing residents. The causes and effects of illegal drug usage must be discussed in a formal setting to provide both young people and adults the working knowledge and skills they need to make informed decisions to confront the potential and immediate dangers of illegal drugs. Grantees may contract (in accordance with 24 CFR 85.36) with professionals to provide appropriate training or workshops. The professionals contracted to provide these services shall be required to base their services upon the needs assessment and program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of public housing residents.

(B) Family and other support services. Drug prevention programs must demonstrate that they will provide directly or otherwise make available services designed to distribute drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the development or the community for public housing families.

(C) Youth services. Drug prevention programs must demonstrate that they have included groups composed of young people as a part of their prevention programs. These groups must be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural and other activities involving public housing youth. The dissemination of drug education information, the development of peer leadership skills and other drug prevention activities must be a component of youth services. Activities or services funded under this program may not also be funded under the Youth Sports Program.

(D) Economic/educational opportunities for residents and youth. Drug prevention programs must demonstrate a capacity to provide public housing residents the opportunities for interaction with or referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational, vocational and economic goals. The program must also demonstrate the ability to provide public housing residents the opportunity to interact with private sector businesses in their immediate community for the same desired goals.

(ii) *Intervention.* The aim of intervention is to identify public housing resident drug users and assist them in modifying their behavior and in obtaining early treatment, if necessary. The applicant must establish a program with the goal of preventing drug problems from continuing once detected.

(iii) *Drug treatment.* (A) Treatment funded under this program shall be in or around the premises of the public housing developments proposed for funding.

(B) Funds awarded under this program shall be targeted towards the development and implementation of new drug referral treatment services and/or aftercare, or the improvement of, or expansion of such program services for public housing residents.

(C) Each proposed drug program should address the following goals:

(1) Increase resident accessibility to drug treatment services;

(2) Decrease criminal activity in and around public housing developments by reducing illicit drug use among public housing residents; and

(3) Provide services designed for youth and/or maternal drug abusers, e.g., prenatal and postpartum care, specialized counseling in women's issues, parenting classes, or other drug supportive services.

(D) Approaches that have proven effective with similar populations will be considered for funding. Programs should meet the following criteria:

(1) Applicants may provide the service of formal referral arrangements to other treatment programs not in or around the developments where the resident is able to obtain treatment costs from sources other than this program.

(2) Provide family and collateral counseling.

(3) Provide linkages to educational and vocational counseling.

(4) Provide coordination of services to appropriate tribal or local drug agencies, HIV-related service agencies, and mental health and public health programs.

(E) Applicants must demonstrate a working partnership with the Single State Agency or current tribal or State license provider or authority with drug program coordination responsibilities to coordinate, develop and implement the drug treatment proposal.

(F) The Single State Agency or authority with drug program coordination responsibilities must certify that the drug treatment proposal is consistent with the State treatment plan; and that the treatment service meets all State licensing requirements.

(G) Funding is not permitted for treatment of residents at any in-patient medical treatment programs and facilities.

(H) Funding is not permitted for detoxification procedures, short term or long term, designed to reduce or eliminate the presence of toxic substances in the body tissues of a patient.

(I) Funding is not permitted for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a long period of supportive therapy (e.g. methadone maintenance), rather than for immediate control of a disorder.

(7) Resident Management Corporations (RMCs), Resident Councils (RCs), and Resident Organizations (ROs)

Funding under this program is permitted for HAs to contract with RMCs and incorporated RCs and ROs to develop security and drug abuse prevention programs involving site residents. Such programs may include (but are not limited to) voluntary tenant patrol activities, drug education, drug intervention, youth programs, referral, and outreach efforts.

(8) Continuation of Current Program Activities

An applicant may apply to continue an existing activity funded under this program. The Department will evaluate an applicant's performance of the activity that the applicant wants to continue with additional funding under this NOFA. The Department will review and evaluate the applicant's conduct of the activity under the previous grant, including financial and program

performance; reporting and special condition compliance; accomplishment of stated goals and objectives under the previous grant; and program adjustments made in response to previous ineffective performance. Since this is a competitive program, HUD does not guarantee continued funding of any previously funded Drug Elimination Program Grant.

(9) PHA-Owned Housing

Funding may be used for the activities described in sections I.(c) (1) through (7) (Eligible activities) of this NOFA, to eliminate drug-related crime in housing owned by public housing agencies that is not public housing that is assisted under the United States Housing Act of 1937 and is not otherwise federally assisted (for example, housing that receives tenant subsidies under Section 8 is federally assisted and would not qualify, but housing that receives only state or local assistance would qualify), but only if they meet all of the following:

(i) The housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988; and

(ii) The PHA owning the housing demonstrates, on the basis of information submitted in accordance with the requirements of sections I.(d)(1), below, of this NOFA, that drug-related activity, and the problems associated with such activity, at the housing has a detrimental affect on or about the housing. For the purposes of this NOFA "on or about" means: On the premises or immediately adjacent to the premises of the real property comprising the public or other federally-assisted housing.

As of February 1994 the following areas were confirmed by the Office of National Drug Control Policy Office, as designated high intensity drug trafficking areas:

—Washington, DC-Baltimore, MD which includes: Washington, DC, Alexandria, Arlington Cty, Fairfax Cty, Montgomery Cty, Prince George's Cty, Charles Cty, Anne Arundel Cty, Howard Cty, Baltimore Cty, and Baltimore, MD.
—New York City (and a surrounding area that includes Nassau Cty, Suffolk County, and Westchester Cty, New York, and all municipalities therein; and Union Cty, Hudson Cty, and Essex Cty, New Jersey, and all municipalities therein);
—Los Angeles (and a surrounding area that includes Los Angeles Cty, Orange Cty, Riverside Cty, and San Bernadino Cty, and all municipalities therein);
—Miami (and a surrounding area that includes Broward Cty, Dade County, and Monroe Cty, and all municipalities therein);
—Houston (and a surrounding area that includes Harris Cty, Galveston Cty, and all municipalities therein); and
—The Southwest Border (and adjacent areas that include San Diego and Imperial Cty, California, and all municipalities therein; Yuma Cty, Maricopa Cty, Pinal Cty, Pima Cty, Santa Cruz Cty, and Cochise Cty, Arizona, and all municipalities therein; Hidalgo Cty, Grant County, Luna County, Dona Ana Cty, Eddy Cty, Lea Cty, and Otero Cty, New Mexico, and all municipalities therein; El Paso Cty, Hudspeth Cty, Culberson Cty, Jeff Davis Cty, Presidio County, Brewster Cty, Pecos Cty, Terrell Cty, Crockett Cty, Val Verde Cty, Kinney Cty, Maverick Cty, Zavala Cty, Dimmit Cty, La Salle Cty, Webb County, Zapata County, Jim Hogg County, Starr County, Hildago Cty, Willacy Cty, and Cameron Cty, Texas, and all municipalities therein).

For further information on high intensity drug trafficking areas contact: Rich Yamamoto, at the Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20500. Telephone number: (202) 395–6755.

(10) Ineligible Activities

Funding is not permitted for any of the activities listed below or those specified as ineligible elsewhere in this NOFA.

(i) Funding is not permitted for costs incurred before the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or the actual writing of the application.

(ii) Funding is not permitted for the purchase of controlled substances for any purpose, including sting operations.

(iii) Funding is not permitted for compensating informants, including confidential informants.

(iv) Funding is not permitted for the purchase of law enforcement and/or any other vehicles, including cars, vans, buses, motorcycles, scooters, or motor bikes, except as specified in this NOFA.

(v) Funding is not permitted to purchase or lease any military or law enforcement clothing or equipment, such as, vehicles, uniforms, ammunition, firearms/weapons, military or police vehicles, protective vests, and any other supportive equipment, etc.

(vi) Drug elimination grant funds may not be used for any full-time wages or salaries for voluntary tenant patrol participants.

(vii) Funding is not permitted for the costs of leasing, acquiring, constructing or rehabilitating any facility space in a building or unit.

(viii) Funding is not permitted for organized fund raising, advertising, financial campaigns, endowment drives, solicitation of gifts and bequests, rallies, marches, community celebrations and similar expenses.

(ix) Funding is not permitted for the costs of entertainment, amusements, or social activities, and for the expenses of items such as meals, beverages, lodgings, rentals, transportation, and gratuities related to these ineligible activities. However, funding is permitted for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred only for training, and education activities directly related to "drug prevention programs."

(x) Funding is not permitted for the costs (court costs, attorneys fees, etc.) related to screening or evicting residents for drug-related crime. However, investigators funded under this program may participate in judicial and administrative proceedings as provided in paragraph I.(c)(4)(i)(B) (Employment of Investigators) of this NOFA.

(xi) Although participation in activities with Federal drug interdiction or drug enforcement agencies is encouraged, the transfer of Drug Elimination Program funds to any Federal agency is not permitted.

(xii) Alcohol-related activities and programs are not eligible for funding under this program.

(xiii) Funding is not permitted under this NOFA for establishing councils, resident associations, resident organizations, and resident corporations since HUD funds these activities under a separate NOFA.

(xiv) Indirect costs as defined in OMB Circular A–87 are not permitted under this program. Only direct costs are permitted.

(xv) Funding is not permitted for any cash awards, such as scholarships, prizes, etc.

(xvi) Grant funds shall not be used to supplant existing positions or programs.

*(d) Selection Criteria*

HUD will review each application that it determines meets the requirements of this NOFA and assign points in accordance with the selection criteria. An application for funding under this program may be for one or more eligible activities.

An applicant may submit only one application under each Notice of Funding Availability (NOFA). Joint applications are not permitted under

this program with the following exception: housing authorities (HA) under a single administration (such as housing authorities managing another housing authority under contract or housing authorities sharing a common executive director) may submit a single application, even through each housing authority has its own operating budget.

The number of points that an application receives will depend on the extent to which the application is responsive to the information requested in the selection criteria. An application must receive a score of at least 80 points out of the maximum of 120 points that may be awarded under this competition to be eligible for funding.

After applications have been scored, Headquarters will rank the applications on a national basis according to two categories, either HAs with up to 1249 units, or HAs with 1250 or more units. Awards will be made in ranked order until all funds are expended. Any funding that cannot be awarded in one category will be awarded under the other category within the statutory limits.

HUD will select the highest ranking applications that can be fully funded. Applications with tie scores will be selected in accordance with the procedures in paragraph I. (e) (Ranking Factors). The terms "housing" and "development(s)" as used in the application selection criteria and submission requirements may include, as appropriate, housing described in section I. (c)(9) (PHA-Owned Housing), above, of this NOFA. Each application submitted for a grant under this NOFA will be evaluated on the basis of the following selection criteria:

(1) *First Criterion: The Extent of the Drug-Related Crime Problem in the Applicant's Development or Developments Proposed for Assistance.* (Maximum Points: 45) To permit HUD to make an evaluation on the basis of this criterion, an application must include a description of the extent of drug-related crime and/or problems associated with it, in the developments proposed for funding. An applicant must explain in what way a problem claimed to be associated with drug-related crime is a result of drug-related crime. The description should provide the following information:

(i) *Objective data.* The best available objective data on the nature, source, and frequency of the problem of drug-related crime and/or the problems associated with drug-related crime. This data may include (but not necessarily be limited to):

(A) The nature and frequency of drug-related crime and problems associated with drug-related crime as reflected by crime statistics and other data from Federal, tribal, State or local law enforcement agencies.

(B) Information from records on the types and sources of drug-related crime in the developments proposed for assistance.

(C) Descriptive data as to the types of offenders committing drug-related crime in the applicant's developments (e.g., age, residence, etc.).

(D) The number of lease terminations or evictions for drug-related criminal activity.

(E) The number of emergency room admissions for drug use or that result from drug-related crime (such information may not be available from police departments but only from fire departments or emergency medical services agencies).

(F) The number of police calls for service (not just drug-related) such as, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles.

(G) The number of residents placed in treatment for substance abuse.

(H) The school dropout rate and level of absenteeism for youth that the applicant can relate to drug-related crime. (If crime or other statistics are not available at the development or precinct level, the applicant may use other reliable, objective data including those derived from its records or those of RMCs, RCs or ROs).

(I) Where appropriate, the statistics should be reported both in real numbers, and as an annual percentage of the residents in each development (e.g., 20 arrests in a year for distribution of heroin in a development with 100 residents reflects a 20% occurrence rate). The data should cover the most recent one-year period (a one-year period ending within 3 months of the date of the application). If the data from the most recent one-year period is not used, an explanation must be provided. To the extent feasible, the data provided should be compared with data from a prior one-year period to show whether the current data reflects a percentage increase or decrease in drug-related crime and/or its associated problems during that prior period of time.

(J) A reduction in drug-related crime in developments where previous Drug Elimination grants have been in effect will not be considered a disadvantage to the applicant.

(K) If funding is being sought for housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, the application must demonstrate that the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and the application must demonstrate that drug-related activity, and the problems associated with it, at the housing has a detrimental affect on or about the real property comprising the public or other federally assisted low-income housing. For the purposes of this NOFA "on or about" means: on the premises or immediately adjacent to the premises of the real property comprising the public or other federally-assisted housing.

(ii) *Other data on the extent of drug-related crime.* To the extent that objective data as described above may not be available, or to complement that data, the assessment may use data from other sources that have a direct bearing on drug-related crime and/or the problems associated with it in the developments proposed for assistance under this program. However, if other relevant information is to be used in place of, rather than to complement, objective data, the application must indicate the reasons why objective data could not be obtained and what efforts were made to obtain it. Examples of these data include (but not necessarily be limited to):

(A) Resident and staff surveys on drug-related issues or on-site reviews to determine drug activity; and local government or scholarly studies or other research in the past year that analyze drug activity in the targeted developments.

(B) Vandalism cost and related vacancies attributable to drug-related crime.

(C) Information from schools, health service providers, residents and local, state, and Federal law enforcement agencies; and the opinions and observations of individuals having direct knowledge of drug-related crime and/or the problems associated with it concerning the nature and frequency of these problems in the developments proposed for assistance. (These individuals may include local, state and Federal law enforcement officials, resident or community leaders, school officials, community medical officials, drug treatment or counseling professionals, or other social service providers.)

(iii) In awarding points, HUD will evaluate the extent to which the applicant has provided the above data that reflects a drug-related crime problem, both in terms of the frequency

and nature of the drug-related problems associated with drug-related crime in the developments proposed for funding as reflected by information submitted under paragraph (1) (i) (objective data), and (ii) (other data) of this section; and the extent to which such data reflects an increase in drug-related crime over a period of *one year* in the developments proposed for assistance. (Maximum Points Under Paragraphs (i) and (ii) of this Section: 20)

(iv) In awarding points, HUD will evaluate the extent to which the applicant has analyzed the data compiled under paragraphs (1) (i) and (ii) of this section, and has clearly articulated its needs for reducing drug-related crime in developments proposed for assistance. (Maximum Points: 5)

(v) In awarding points, HUD will evaluate and assign points between zero (0) and ten (10) according to the per capita incidence of robbery and homicide in their community relative to their per capita incidence on a nationwide basis. Data on robbery and homicide incidence were chosen because of the demonstrated relationship of a substantial portion of these crimes with drug abuse. The community data will be taken from the Uniform Crime Reports (UCRs) of the U.S. Department of Justice (FBI crime data) and will be at the city level, when available, or at the county level. The crime incidence data and the point values will be computed by HUD. (Maximum Points: 10)

(vi) In awarding points, HUD will evaluate and assign points between zero (0) and ten (10) according to the per capita incidence of drug arrests. In instances where the Department of Justice records do not contain community submission data, points will be assigned based on state metropolitan and nonmetropolitan averages relevant to such areas. (Maximum Points: 10)

(2) *Second Criterion: The Quality of the Plan To Address the Crime Problem in the Public or Indian Housing Developments Proposed for Assistance, Including the Extent to Which the Plan Includes Initiatives That Can Be Sustained Over a Period of Several Years.* (Maximum Points: 35) In assessing this criterion, HUD will consider the following factors:

(i) To permit HUD to make an evaluation on the basis of this criterion, an application must include the applicant's plan for addressing drug-related crime and/or its associated problems. This means a narrative description of the applicant's activities for addressing drug-related crime and/or its associated problems in each of the developments proposed for assistance under this part must be included in the application. The activities eligible for funding under this program are listed in section I.(c) of this NOFA, above, although the applicant's plan must include all of the activities that will be undertaken to address the problem, whether or not they are funded under this program. If the same activities are proposed for all of the developments that will be covered by the plan, the activities do not need to be described separately for each development. Where different activities are proposed for different developments, these activities and the developments where they will take place must be separately described. The description of the plan in the application must include (but not necessarily be limited to) the following information:

(A) A narrative describing each activity proposed for Drug Elimination Program funding in the applicant's plan, any additional relevant activities being undertaken by the applicant (e.g., a drug treatment program for residents funded by an agency other than HUD), and how all of these activities interrelate. The applicant should specifically address whether it plans to implement a comprehensive drug elimination strategy that involves management practices, enforcement/law enforcement techniques (such as community policing), and a combination of drug abuse prevention, intervention, referral, and treatment programs. In addition, the applicant should indicate how its proposed activities will complement, and be coordinated with, current activities.

(*1*) If grant amounts are to be used for contracting security guard personnel services in public housing developments the application must describe how the requirements of section I.(c)(1)(i) (Employment of Security Personnel) of this NOFA will be met.

(*2*) If grant amounts are to be used for HA police officers the application must describe how the requirements of section I.(c)(1)(ii) (HA Police Departments) of this NOFA will be met.

(*3*) If grant amounts are to be used for reimbursement of local law enforcement agencies for additional security and protective services the application must describe how the requirements of section I.(c)(2) (Reimbursement of Local Law Enforcement Agencies) of this NOFA will be met.

(*4*) If grant amounts are to be used for physical improvements in public housing developments proposed for funding under section I.(c)(3) (Physical Improvements) of this NOFA the application must discuss how these improvements will be coordinated with the applicant's modernization program, if any, under 24 CFR part 968.

(*5*) If grant amounts are to be used for employment of investigators the application must describe how the requirements of section I.(c)(4) (Employment of Investigators) of the NOFA will be met.

(*6*) If grant amounts are to be used for voluntary tenant patrols the application must describe how the requirements of section I.(c)(5) (Voluntary tenant patrol) of this NOFA will be met.

(*7*) If grant amounts are to be used for a prevention, intervention or treatment program to reduce the use of drugs in and around the premises of public and Indian housing developments as provided in I.(c)(6) (Programs to Reduce the Use of Drugs) of this NOFA, the application must discuss the nature of the program, how the program represents a prevention or intervention strategy, and how the program will further the HA's strategy to eliminate drug-related crime and/or its associated problems in the developments proposed for assistance.

(B) The anticipated cost of each activity in the plan, a description of how funding decisions were reached (cost analysis), and the financial and other resources (including funding under this program, and from other resources) that may reasonably be expected to be available to carry out each activity.

(C) An implementation timetable that includes tasks, deadlines, cost and persons responsible for implementing (beginning, achieving identified milestones, and completing) each activity in the plan.

(D) The role of tenants, and RMCs, RCs, and ROs (where these organizations exist) in planning and developing the application for funding and in implementing the applicant's plan. The application must provide the name of the RMC or incorporated RC or RO that will develop any security and drug abuse prevention programs under section I.(c)(7) (RMCs, RCs, and ROs) of this NOFA involving site residents.

(E) The role of any other entities (e.g., tribal, local and State governments, community organizations and federal agencies) in planning and carrying out the plan. This can be shown, for example, by providing letters of support or commitment from governmental or private entities of the financial or other resources (e.g., staff or in-kind resources) that they agree to provide.

(F) The resources that the applicant may reasonably expect to be available at the end of the grant term to continue the plan, and how they will be allocated to

plan activities that can be sustained over a period of years.

(G) A discussion of how the applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 961.26(d) and 24 CFR 961.29(b)(4). HAs are encouraged to hire qualified residents in all positions.

(H) Program evaluation. The plan must specifically discuss how the activities funded under this program will be evaluated by the applicant, so that the program's progress can be measured. The evaluation may also be used to modify activities to make them more successful or to identify unsuccessful strategies. The evaluation must identify the types of information the applicant will need to measure the plan's success (e.g., tracking changes in identified crime statistics); and indicate the method the applicant will use to gather and analyze this information.

(ii) In assessing this criterion, HUD will consider the quality and thoroughness of an applicant's plan in terms of the information requested in section I.(d)(2)(i), "Quality of the plan," of this NOFA, including the extent to which:

(A) The applicant's plan clearly describes the activities that are being proposed by the applicant, including those activities to be funded under this program and those to be funded from other sources, and indicates how these proposed activities provide for a comprehensive approach to eliminate drug-related crime and/or its associated problems (as described under the first criterion, section I.(d)(1), "The extent of the drug-related crime problem" of this NOFA, above) in the developments proposed for funding. (Maximum Points: 10)

(B) The applicant's plan provides a budget narrative (with cost analysis) for each activity and describes the financial and other resources (under this program and other sources) that may reasonably be expected to be available to carry out each activity. (Maximum Points: 4)

(C) The applicant's plan is realistic in terms of time, personnel, and other resources, considering the applicant's timetable for beginning and completing each component of the plan and the amount of funding requested under this program and other identified resources available to the applicant. (Maximum Points: 3)

(D) As described in the plan, tenants, and RMCs/RCs/ROs, where they exist, are involved in planning and developing the application for funding and in implementing the applicant's plan. (Maximum Points: 4)

(E) As described in the plan, other entities (e.g., tribal, local and state governments and community organizations) are involved in planning and carrying out the applicant's plan. (Maximum Points: 3)

(F) The plan includes activities that can be sustained over a period of years and identifies resources that the applicant may reasonably expect to be available for the continuation of the activities at the end of the grant term. (Maximum Points: 4)

(G) The applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 961.26(d) and 24 CFR 961.29(b)(4). (Maximum Points: 3)

(H) The applicant has developed an evaluation process to measure the success of the plan. (Maximum Points: 4)

(3) *Third Criterion: The Capability of the Applicant To Carry Out the Plan.* (Maximum Points: 20) In assessing this criterion, HUD will consider the following factors:

(i) The extent of the applicant's administrative capability to manage its housing developments, as measured by its performance with respect to operative HUD requirements under the ACC or ACA and the Public Housing Management Assessment Program at 24 CFR part 901. In evaluating administrative capability under this factor, HUD will also consider, and the application must include in the form of a narrative discussion, the following information:

(A) Whether there are any unresolved findings from prior HUD reports (e.g. performance or finance), reviews or audits undertaken by HUD, the Inspector General, the General Accounting Office, or independent public accountants;

(B) Whether the applicant is operating under court order; and,

(C) If applicable, the progress made by a troubled HA in achieving goals established under a Memorandum of Agreement (MOA) executed with HUD. (Maximum Points under paragraph (3)(i)(A)(B) and (C) of this section: 3)

(ii) The application must discuss the extent to which the applicant has implemented effective screening procedures to determine an individual's suitability for public housing (consistent with the requirements of 42 U.S.C. 3604(f), 24 CFR 100.202, 29 U.S.C. 794 and 24 CFR 8.4 which deal with individuals with disabilities); implemented a plan to reduce vacancies; implemented eviction procedures in accordance with 24 CFR 966, subpart B, and section 503 of NAHA; or undertaken other management actions to eliminate drug-related crime and/or its associated problems in its developments. (Maximum Points: 2)

(iii) The application must identify the applicant's participation in HUD grant programs (such as CGP, CIAP, youth sports, child care, resident management, Drug Elimination Program grants, etc.) within the preceding three years, and discuss the degree of the applicant's success in implementing and managing these grant programs. (Maximum Points: 5)

(iv) The Field Office shall evaluate the extent of the applicant's success, effort, or failure in implementing and managing an effective program under previous Drug Elimination grants (preceding three years). Successful and effective management of previous Drug Elimination grant program(s), will result in up to 10 extra points. Evidence of an unjustified failure to make adjustments to an ineffective program will result in a deduction of up to 10 points. This evaluation will be based upon HUD's Line of Credit Control System (LOCCS) reports, PHDEP performance and financial reports, and HUD reviews. (Maximum Points: Plus (+) 10 or Minus (−) 10 Points)

(4) *Fourth Criterion: The Extent to Which Tenants, the Local Government and the Local Community Support and Participate in the Design and Implementation of the Activities Proposed To Be Funded Under the Application.* (Maximum Points: 20) In assessing this criterion, HUD will consider the following factors:

(i) The application must include a discussion of the extent to which community representatives and local, State and Federal government officials are actively involved in the design and implementation of the applicant's plan, as evidenced, by descriptions of planning meetings held with community representatives and local government officials, letters of commitment to provide funding, staff, or in-kind resources, or written comments on the applicants planned activities. (Maximum Points: 7)

(ii) The application must discuss the extent to which the relevant governmental jurisdiction has met its law enforcement obligations under the Cooperation Agreement with the

applicant (as required by the grantee's Annual Contributions Contract with HUD). The application must also include a certification by the Chief Executive Officer (CEO) of a State or a unit of general local government in which the developments proposed for assistance are located that the locality is meeting its obligations under the Cooperation Agreement with the HA, particularly with regard to law enforcement services. If the jurisdiction is not meeting its obligations under the Cooperation Agreement, the CEO should identify any special circumstances relating to its failure to do so. Whether or not a locality is meeting its obligations under the Cooperation Agreement with the applicant, the application must describe the current level of law enforcement services being provided to the developments proposed for assistance. (Maximum Points: 5)

(iii) The extent to which development residents (tenants), and an RMC, RC or RO, where they exist, are involved in the planning and development of the grant application and plan strategy, and support and participate in the design and implementation of the activities proposed to be funded under the application. The application must include a summary of each written resident and resident organization comment, as required by 24 CFR 961.18, and the applicant's response to and action on these comments. If there are no resident or resident organization comments, the applicant must provide an explanation of the steps taken to encourage participation, even though they were not successful. (Maximum Points: 3)

(iv) The extent to which the applicant is already undertaking, or has undertaken, participation in local, State, or Federal anti-drug related crime efforts (such as Operation Weed and Seed, coordinated by the U.S. Department of Justice, or Operation Safe Home) or is successfully coordinating its law enforcement activities with local, State or Federal law enforcement agencies. (Maximum points: 5)

*(e) Ranking Factors*

(1) Each application for a grant award that is submitted in a timely manner to the local HUD Field Office with delegated public housing responsibilities or, in the case of IHAs, to the appropriate Office of Native American Programs, and that otherwise meets the requirements of this NOFA.

(2) An application must receive a score of at least 80 points out of the maximum of 120 points that may be awarded under this competition to be eligible for funding.

(3) After applications have been scored, Headquarters will rank the applications on a national basis according to two categories, either HAs with up to 1,249 units, or HAs with 1,250 or more units. Awards will be made in ranked order until all funds are expended. Any funding that cannot be awarded in one category will be awarded under the other category within the statutory limits.

(4) In the event that two eligible applications receive the same score, and both cannot be funded because of insufficient funds, the application with the highest score in Selection Criterion 3 "The Capability of the Applicant to Carry Out the Plan" will be selected. If Selection Criterion 3 is scored identically for both applications, the scores in Selection Criteria 1, 2, and 4 will be compared in this order, one at a time, until one application scores higher in one of the factors and is selected. If the applications score identically in all factors, the application that requests less funding will be selected.

(5) All awards will be made to fund fully an application, except as provided in paragraph I.(b)(4) (Reduction of Requested Grant Amounts and Special Conditions).

*(f) General Grant Requirements*

The following requirements apply to this program:

(1) Grantees are required to use grant funds under this program in accordance with this NOFA, 24 CFR part 961, 24 CFR part 85, applicable statutes, HUD regulations, Notices, Handbooks, OMB circular, grant agreements/amendments, and the grantee's approved plan, budget (SF–424A), budget narratives and timetable.

(2) *Applicability of OMB Circular and HUD fiscal and audit controls.* The policies, guidelines, and requirements of this NOFA, 24 CFR 961, 24 CFR part 85, and OMB Circular A–87 apply to the acceptance and use of assistance by grantees under this program; and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations (including RMCs, RCs and ROs). In addition, grantees and subgrantees must comply with fiscal and audit controls and reporting requirements prescribed by HUD, including the system and audit requirements under the Single Audit Act, OMB Circular No. A–128 and HUD's implementing regulations at 24 CFR part 44; and OMB Circular No. A–133.

(3) *Cost Principles.* Specific guidance in this NOFA, 24 CFR part 961, 24 CFR part 85, OMB Circular A–87, other applicable OMB cost principles, HUD program regulations, Notices, HUD Handbooks, and the terms of grant/special conditions and subgrant agreements will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable, necessary and justified with cost analysis. PHDEP Funds must be disbursed by the grantee within seven calendar days after receipt of drawdown. Grant funds must be used only for Drug Elimination Program purposes. Direct costs are those that can be identified specifically with a particular activity or function in this NOFA and cost objectives in OMB Circular A–87. Indirect cost are not permitted in this program. Administrative requirements for Drug Elimination Program grants will be in accordance with 24 CFR part 85. Acquisition of property or services shall be in accordance with 24 CFR 85.36. All equipment acquisitions will remain the property of the grantee in accordance with 24 CFR 85.32. ONAP procurement standards are in 24 CFR part 905.

(4) *Grant Staff Personnel.* (i) All persons or entities compensated by the grantee for services provided under a Drug Elimination Program grant must meet all applicable personnel or procurement requirements and shall be required as a condition of employment to meet all relevant State, local and federally-recognized Indian tribal government, insurance, training, licensing, or other similar standards and requirements.

(ii) Compensation for personnel (including supervisory personnel, such as a grant administrator or drug program coordinator, and support staff, such as counselors and clerical staff) hired for grant activities is permitted and may include wages, salaries, and fringe benefits.

(iii) All grant personnel must be necessary, reasonable and justified. Job descriptions must be provided for all grant personnel. Excessive staffing is not permitted.

(iv) PHA–IHA staff employees shall be compensated with grant funds only for work performed directly for PHDEP grant-related activities and shall document the time and activity involved in accordance with 24 CFR 85.20.

(5) *Term of Grant.* The grant project (FY 1994 PHDEP grant) must be completed within, and shall not exceed, 24 months from the date of execution of the grant agreement, unless an extension and grant amendment (HUD Form 1044) is approved by the local Field Office. After the award of the grant the maximum extension allowable for any

project period is 6 months. Any funds not expended at the end of the grant term shall be remitted to HUD.

(6) *Duplication of Funds.* To prevent duplicate funding of any activity, the grantee must establish controls to assure that an activity or program that is funded by other HUD programs, such as modernization or CIAP, or programs of other Federal agencies, shall not also be funded by the Drug Elimination Grant Program.

The grantee must establish an auditable system to provide adequate accountability for funds which it has been awarded. The applicant has the responsibility to ensure there is no duplication of funding sources.

(7) *Sanctions.* (i) HUD may impose sanctions if the grantee:

(A) Is not complying with the requirements of 24 CFR part 961 or of other applicable Federal law;

(B) Fails to make satisfactory progress toward its drug elimination goals, as specified in its plan and as reflected in its performance and financial status reports under § 961.28;

(C) Does not establish procedures that will minimize the time elapsing between drawdowns and disbursements;

(D) Does not adhere to grant agreement requirements or special conditions;

(E) Proposes substantial plan changes to the extent that, if originally submitted, would have resulted in the application not being selected for funding;

(F) Engages in the improper award or administration of grant subcontracts;

(G) Does not submit reports; or

(H) Files a false certification, for example, those listed under section I.(d) of this NOFA.

(ii) HUD may impose the following sanctions:

(A) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee;

(B) Disallow all or part of the cost of the activity or action not in compliance;

(C) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;

(D) Require that some or all of the grant amounts be remitted to HUD;

(E) Condition a future grant and elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance;

(F) Withhold further awards for the program or

(G) Take other remedies that may be legally available.

(8) *Notification.* After completion of the ranking and environmental reviews as required by 24 CFR 961.15(d), HUD will send written notification to all applicants of whether or not they have been selected.

(9) *Grant Agreement.* After an application has been approved, HUD and the applicant shall enter into a grant agreement (Form HUD–1044) setting forth the amount of the grant and its applicable terms, conditions, financial controls, payment mechanism/schedule, and special conditions, including sanctions for violation of the agreement.

## II. Application Process

### *(a) Application Kit*

An application kit may be obtained and assistance provided, from the local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over an applying public housing agency (PHA), or from the Office of Native American Programs (ONAP) having jurisdiction over the Indian housing authority (IHA) making an application, or by calling HUD's Resident Initiatives Clearinghouse, telephone 1–800–578–3472 (DISC). The application package contains information on all exhibits and certifications required under this NOFA.

### *(b) Application Submission*

Applications are due on or before Friday, July 29, 1994, at 3:30 p.m., local time. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applications (original and two copies) must be physically received by the deadline at the local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over the applying PHA Attention: Director, Public Housing Division, or, in the case of IHAs, to the local HUD Field Office Attention: Administrator, Office of Native American Programs with jurisdiction over the applying IHA, as appropriate. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

## III. Checklist of Application Submission Requirements

To qualify for a grant under this program, the application submitted to HUD shall include, in addition to those requirements listed under section I.(d) (Selection Criteria) of this NOFA, including the plan to address the problem of drug-related crime in the developments proposed for funding, at least the following items:

### *(a) Applicant Data Form*

The applicant must complete the required information for database entry. The form is provided in the application kit.

### *(b) Application for Federal Assistance*

Standard Form SF–424. The SF–424 is the face sheet for the application. The form is provided in the application kit. The assurance form must be attached to the SF–424.

### *(c) SF–424A (Budget Information)*

With budget narrative(s) attached that describes each major activity proposed for funding, e.g., employment of security personnel (security guards and HA police officers), reimbursement of local law enforcement services, physical improvements, employment of investigators, voluntary tenant (resident) patrols, drug prevention, intervention, and treatment programs to reduce the use of drugs). The form(s) must be attached to the SF–424A. The form is provided in the application kit.

### *(d) Applicants Must Verify Its Unit Count With the Local HUD Field Office Prior To Submitting the Application*

Applicants must compute the maximum grant award amount for which they are eligible (eligible dollar amount per unit x (times) number of units listed in the housing authority low-rent operating budgets (form HUD–52564) for housing authority fiscal year ending March 31, June 30, September 30, or December 31, 1993 and compare it with the dollar amount requested in the application to make certain the amount requested does not exceed the permitted maximum grant award.

### *(e) Certifications and Assurances (Assurance Must Be Attached to SF–424)*

Applications must include (forms are provided in the application kit):

(1) A certification that the applicant will maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1988, 24 CFR Part 24, Subpart F. (Applicants may submit a copy of their most recent drug-

free workplace certification, which must be dated within the past year.)

(2) A certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities generally prohibit recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan.

(3) If applying for drug treatment program funding, a certification by the applicant that the applicant has notified and consulted with the relevant local tribal commission, Single State Agency or other local authority with drug program coordination responsibilities concerning its application; and that the proposed drug treatment program has been reviewed by the relevant local tribal commission, Single State Agency or other local authority and is consistent with the tribal or State treatment plan.

(4) A certification (the certification is provided in the application kit) by the Chief Executive Officer (CEO) of a State or a unit of general local government in which the developments proposed for assistance are located that:

(i) Grant funds provided under this program will not substitute for activities currently being undertaken on behalf of the applicant by the jurisdiction to address drug-related crime and/or its associated problems;

(ii) Any reimbursement of local law enforcement agencies for additional security and protective services to be provided under section I.(c)(2) of this NOFA meet the requirements of that section.

(5) A certification from the chief of the local law enforcement agency:

(i) If the application is for employment of security guard personnel, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the provider of the security personnel in accordance with the requirements of sections I.(c)(1) (Employment of security guard personnel) of this NOFA;

(ii) If the application is for employment of investigators, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the investigators, in accordance with the requirements of sections I.(c)(4) (Employment of investigators) of this NOFA;

(iii) If the application is for voluntary tenant (resident) patrol funding, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the voluntary tenant patrol, in accordance with the requirements of sections I.(c)(5) (voluntary tenant (resident) patrol) of this NOFA.

(6) A certification by the RMC, RC or RO, or other involved resident group where an RMC, RC or RO do not exist, that the residents participated in the preparation of the grant application with the applicant, and that the applicant's description of the activities that the resident group will implement under the program is accurate and complete.

*(g) HUD Form 2880, Applicant Disclosures*

The form is provided in the application kit.

**IV. Corrections to Deficient Applications**

(a) HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that:

(i) Are not necessary for HUD review under selection criteria/ranking factors; and

(ii) Cannot be submitted after the submission due date (application deadline) to improve the quality of the applicant's program proposal.

(c) An example of a curable technical deficiency would be the failure of an applicant to submit a required assurance, budget narrative, certification, applicant data form, summaries of written resident comments, incomplete forms such as the SF–424 or lack of required signatures, appendixes and documentation referenced in the application or a computational error based on the use of an incorrect number(s) such as incorrect unit counts. These items are discussed in the application kit and samples, as appropriate, are provided.

(d) An example of a non-curable defect or deficiency would be a missing SF–424A (Budget Information).

**V. Other Matters**

*(a) Nondiscrimination and Equal Opportunity*

The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3600–20 (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 11;

(2) The Indian Civil Rights Act (ICRA) (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–1303) provides, among other things, that "no Indian tribe in exercising powers of self-government shall * * * deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." The Indian Civil Rights Act applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of tribal powers of self-government.

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60;

(5) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(6) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

*(b) Environmental Impact*

Grants under this program are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) in accordance with 24 CFR part 50.20(p). However, prior to an award of grant funds, HUD will perform an environmental review to the extent required by HUD's environmental regulations at 24 CFR part 50, including the applicable related authorities at 24 CFR 50.4.

*(c) Federalism Impact*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government and, therefore, the provisions of this rule do not have "federalism implications" within the meaning of the Order. The rule implements a program that encourages HAs to develop a plan for addressing the problem of drug-related crime, and makes available grants to HAs to help them carry out their plans. As such, the program would help HAs combat serious drug-related crime problems in their developments, thereby strengthening their role as instrumentalities of the States. In addition, further review under the Order is unnecessary, since the rule generally tracks the statute and involves little implementing discretion.

*(d) Family Impact*

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this rule have the potential for a positive, although indirect, impact on family formation, maintenance and general well-being within the meaning of the Order. This rule would implement a program that would encourage HAs to develop a plan for addressing the problem of drug-related crime, and to make available grants to help HAs to carry out this plan. As such, the program is intended to improve the quality of life of public and Indian housing development residents, including families, by reducing the incidence of drug-related crime.

*(e) Section 102 HUD Reform Act—Documentation and Public Access Requirements; Applicant/Recipient Disclosures*

*Documentation and public access.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

*Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

*(f) Section 103 HUD Reform Act*

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

*(g) Section 112 HUD Reform Act*

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

*(h) Prohibition Against Lobbying Activities*

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless

the recipient has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of their sovereign power are excluded from coverage, but IHAs established under State law are not excluded from coverage.

**Authority:** Sec. 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: March 24, 1994.

**Joseph Shuldiner,**

*Assistant Secretary for Public and Indian Housing.*

## Appendix: Listing of HUD Regional Offices, Category A and B Field Offices, and Other Field Offices With Delegated Public Housing Responsibilities, and Offices of Indian Programs

**Note:** The below information was confirmed by local Field Offices February 18, 1994.

*Region I*

Jurisdictions: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

*Boston, Massachusetts Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—Boston Regional Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, MA 02222–1092, (617) 565–5234, TDD Number: (617) 565–5453, Office hours: 8:30 a.m.–5 p.m. local time

*Hartford, Connecticut Office—Category A Office*

Office of the Manager, HUD—Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860, (203) 240–4522, TDD Number: (203) 240–4665, Office hours: 8 a.m.–4:30 p.m. local time

*Manchester, New Hampshire Office—Category B Office*

Office of the Manager, HUD—Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TDD Number: (603) 666–7518, Office hours: 8 a.m.–4:30 p.m local time

*Providence, Rhode Island Office—Category B Office*

Office of the Manager, HUD—Providence Office, 330 John O. Pastore Federal Building, U.S. Post Office—Kennedy Plaza, Providence, Rhode Island 02903–1785, (401) 528–5351, TDD Number: (401) 528–5364, Office hours: 8 a.m.–4:30 p.m. local time

*Region II*

Jurisdictions: New York, New Jersey.

*New York RegionaL Office.*

Regional Administrator, Regional Housing Commissioner, HUD—New York Regional Office, 26 Federal Plaza, New York, New York 10278–0068, (212) 264–6500, TDD Number: (212) 264–0927, Office hours: 8:30 a.m.–5 p.m. local time

*Buffalo, New York Office—Category A Office*

Office of the Manager, HUD—Buffalo Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780, (716) 846–5755, TDD Number: Number not available, Office hours: 8:00 a.m.–4:30 p.m. local time

*Newark, New Jersey Office—Category A Office*

Office of the Manager, HUD—Newark Office, Military Park Building,60 Park Place, Newark, New Jersey 07102–5504,(201) 877–1662, TDD Number: (201) 645–6649,Office hours: 8:30 a.m.–5 p.m. local time

*Region III*

Jurisdictions: Pennsylvania, Washington DC, Maryland, Delaware, Virginia, West Virginia

*Philadelphia, Pennsylvania Regional Office*

Regional Administrator, HUD—Philadelphia Regional Office, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392, (215) 597–2560, TDD Number: (215) 597–5564, Office hours: 8 a.m.–4:30 p.m. local time

*Washington, DC Office—Category A Office*

Office of the Manager, HUD—Washington Office, 820 First Street N.E. Washington, DC 20002–4502, (202) 275–9200, TDD Number: (202) 275–0967, Office hours: 8:00 a.m.–4:30 p.m. local time

*Baltimore, Maryland Office—Category A Office*

Office the Manager, HUD—Baltimore Office, 10 South Howard Street, 5th Floor, Baltimore, Maryland 21201–2505, (410) 962–2520, TDD Number: (410) 962–0106, Office hours: 8:00 a.m.–4:30 p.m. local time,

*Pittsburgh, Pennsylvania Office—Category A Office*

Office of the Manager, HUD—Pittsburgh Office, Old Post Office Courthouse Building, 700 Grant Street, Pittsburgh, Pennsylvania 15219–1939, (412) 644–6428, TDD Number: (412) 644–5747, Office hours: 8 a.m.–4:30 p.m. local time.

*Richmond, Virginia Office—Category A Office*

Office of the Manager, HUD—Richmond Office, The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, Virginia 23230—0331, (804) 278–4507, TDD Number: (804) 278–4501, Office hours: 8 a.m.–4:30 p.m. local time

*Charleston, West Virginia Office—Category B Office*

Office of the Manager, HUD—Charleston Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795, (304) 347–7000, TDD Number: (304) 347–5332 Office hours: 8:00 a.m.–4:30 p.m. local time

*Region IV*

Jurisdictions: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands.

*Atlanta, Georgia Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—Atlanta Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303–3388, (404) 331–5136, TDD Number: (404) 730–2654, Office hours: 8 a.m.–4:30 p.m. local time

*Birmingham, Alabama Office—Category A Office*

Office of the Manager, HUD—Birmingham Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 290–7617, TDD Number: (205) 290–7624, Office hours: 7:45 a.m.–4:30 p.m. local time

*Louisville, Kentucky Office—Category A Office*

Office of the Manager, HUD—Louisville Office, 601 West Broadway, P.O. Box 1044, Louisville, Kentucky 40201–1044, (502) 582–5251, TDD Number: Number not available

*Jackson, Mississippi Office—Category A Office*

Office of the Manager, HUD—Jackson Office, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 965–4773, TDD Number: (901) 601–4171, Office hours: 8 a.m.–4:45 p.m. local time

*Greensboro, North Carolina Office—Category A Office*

Office of the Manager, HUD—Greensboro Office, 2306 West Meadowview Road Greensboro, North Carolina 27407 (919) 547–4000 TDD Number: 919–547–4055 Office hours: 8:00 a.m.–4:45 p.m. local time

*Caribbean Office—Category A Office*

Office of the Manager, HUD—Caribbean Office, New San Office Building, 159 Carlos East Chardon Avenue, San Juan, Puerto Rico 00918–1804, (809) 766–6121, TDD Number: Number not available, Office hours: 8 a.m.–4:30 p.m. local time

*Columbia, South Carolina Office—Category A Office*

Office of the Manager, HUD—Columbia Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5592, TDD Number: Number not available, Office hours: 8 a.m.–4:45 p.m. local time

*Knoxville, Tennessee Office—Category A Office*

Office of the Manager, HUD—Knoxville Office, John J. Duncan Federal Building, 710 Locust Street, S.W., Knoxville, Tennessee 37902–2526, (615) 549–4384, TDD Number: (615) 545–4379, Office hours: 7:30 a.m.–4:15 p.m. local time

*Nashville, Tennessee Office—Category B Office*

Office of the Manager, HUD—Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213, TDD Number: (615) 736–2886, Office hours: 7:45 a.m.–4:15 p.m. local time

*Jacksonville, Florida Office—Category A Office*

Office of the Manager, HUD—Jacksonville Office, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–5121, (904) 232–2626, TDD Number: (904) 232–1241, Office hours: 7:45 a.m.–4:30 p.m. local time

*Region V*

Jurisdictions: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

*Chicago, Illinois Regional Office*

Regional Administrator, Regional Housing Commissioner, Ralph H. Metcalfe Federal Building, HUD—Chicago Regional Office, 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–5680, TTD Number: (312) 353–7143, Office hours: 8:15 a.m.–4:45 p.m. local time

*Chicago, Illinois—Office of Native American Programs*

Administrator, HUD—Chicago Office of Native American Programs, 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4532, TDD Number: (312) 353–7143, Office hours: 8:15 a.m.–4:45 p.m. local time

*Detroit, Michigan Office—Category A Office*

Office of the Manager, HUD—Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592, (313) 226–7900, TDD Number: Number not available, Office hours: 8 a.m.–4:30 p.m. local time

*Indianapolis, Indiana Office—Category A Office*

Office of the Manager, HUD—Indianapolis Office, 151 North Delaware Street, Indianapolis, Indiana 46204–2526, (317) 226–6303, TDD Number: Number not available, Office hours: 8 a.m.–4:45 p.m. local time

*Grand Rapids, Michigan Office—Category B Office*

Office of the Manager, HUD—Grand Rapids Office, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505–3499, (616) 456–2100, TDD Number: Number not available, Office hours: 8 a.m.–4:45 p.m. local time

*Minneapolis-St. Paul, Minnesota Office—Category A Office*

Office of the Manager, HUD—Minneapolis-St. Paul Office, 220 2nd Street South, Bridge Place Building, Minneapolis, Minnesota 55401–2195, (612) 370–3000, TTD Number: (612) 370–3186, Office hours: 8 a.m.–4:30 p.m. local time

*Cincinnati, Ohio Office—Category B Office*

Office of the Manager, HUD—Cincinnati Office, Federal Office Building, Room 9002, 550 Main St., Cincinnati, Ohio 45202–3253, (513) 684–2884, TDD Number: (513) 684–6180, Office hours: 8 a.m.–4:45 p.m. local time

*Cleveland, Ohio Office—Category B Office*

Office of the Manager, HUD—Cleveland Office, Renaissance Building, 1375 Euclid Avenue, Fifth Floor, Cleveland, Ohio 44115–1815, (216) 522–4065, TTD Number: Number not available, Office hours: 8 a.m.–4:40 p.m. local time

*Columbus, Ohio Office—Category A Office*

Office of the Manager, HUD—Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737, TDD Number: Number not available, Office hours: 8:30 a.m.–4:45 p.m. local time

*Milwaukee, Wisconsin Office—Category A Office*

Office of the Manager, HUD—Milwaukee Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214, TDD Number: Number not available, Office hours: 8 a.m.–4:30 p.m. local time

*Region VI*

Jurisdictions: Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

*Fort Worth, Texas—Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—Fort Worth Regional Office, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas, 76113–2905, (817) 885–5401, TDD Number: (817) 885–5447, Office hours: 8 a.m.–4:30 p.m. local time

*Houston, Texas Office—Category B Office*

Office of the Manager, HUD—Houston Office, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, Texas 77098–4096, (713) 653–3274, TDD Number: Number not available, Office hours: 7:45 a.m.–4:30 p.m. local time

*San Antonio, Texas Office—Category A Office*

Office of the Manager, HUD—San Antonio Office, Washington Square, 800 Dolorosa Street, San Antonio, Texas 78207–4563, (512) 229–6800, TDD Number: (512) 229–6885, Office hours: 8 a.m.–4:30 p.m. local time

*Little Rock, Arkansas—Category A Office*

Office of the Manager, HUD—Little Rock Office, TCBY Tower, 425 West Capitol Avenue, Little Rock, Arkansas 72201–3488, (501) 324–5931, TDD Number: (501) 324–5931, Office hours: 8 a.m.–4:30 p.m. local time

*New Orleans, Louisiana Office—Category A Office*

Office of the Manager, HUD—New Orleans Office, Fisk Federal Building, Suite 3100, 1661 Canal Street, New Orleans, Louisiana 70112–2887, (504) 589–7200, TDD Number: Number not available, Office hours: 8 a.m.–4:30 p.m. local time

*Oklahoma City, Oklahoma Office—Category A Office*

Office of the Manager, HUD—Oklahoma City Office, Alfred P Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102–3202, (405) 231–4181, TDD Number: (405) 231–4891, Office hours: 8 a.m.–4:30 p.m. local time

*Oklahoma City, Oklahoma—Office of Native American Programs*

Administrator, HUD—Oklahoma City Office of Native American Programs, Alfred P Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, OK 73102–3201, (405) 231–4102, TDD Number: (405) 231–4891, Office hours: 8 a.m.–4:30 p.m. local time

*Albuquerque, New Mexico Office—Category C Office*

Office of the Manager, HUD—Albuquerque Office, 625 Truman Street N.E., Albuquerque, NM 87110–6472, (505) 262–6463, TDD Number: (505) 262–6463, Office hours: 7:45 a.m.–4:30 p.m. local time

*Region VII*

Jurisdictions: Iowa, Kansas, Missouri, Nebraska.

*Kansas City, Kansas—Regional Office*

Regional Administrator, Regional Housing Commissioner, Kansas City Regional Office, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101–2406, (913) 551–5462, TDD Number: (913) 551–6972, Office hours: 8 a.m.–4:30 p.m. local time

*Omaha, Nebraska Office—Category A Office*

Office of the Manager, HUD—Omaha Office, 10909 Mill Valley Road, Omaha, Nebraska 68154–3955, (402) 492–3100, TDD Number: (402) 492–3183, Office hours: 8 a.m.–4:30 p.m. local time

*St. Louis, Missouri Office—Category A Office*

Office of the Manager, HUD—St. Louis Office, 1222 Spruce Street, St. Louis, Missouri 63103–2836, (314) 539–6583, TDD Number: (314) 539–6331, Office hours: 8 a.m.–4:30 p.m. local time

*Des Moines, Iowa Office—Category B Office*

Office of the Manager, HUD—Des Moines Office, Federal Building, 210 Walnut Street, Room 239, Des Moines, Iowa 50309–2155, (515) 284–4512, TDD Number: (515) 284–4728, Office hours: 8 a.m.–4:30 p.m. local time

*Region VIII*

Jurisdictions: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

*Denver, Colorado—Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—Denver Regional Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5248, TDD Number: (303) 672–5248, Office hours: 8 a.m.–4:30 p.m. local time

*Denver, Colorado—Office of Native American Programs*

Administrator, HUD—Denver Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5467, TDD Number: (303) 672–5248, Office hours: 8 a.m.–4:30 p.m. local time

*Region IX*

Jurisdictions: Arizona, California, Hawaii, Nevada, Guam, American Samoa.

*San Francisco, California—Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—San Francisco Regional Office, Philip Burton Federal Building and U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102–3448, (415) 556–4752, TDD Number: (415) 556–8357, Office hours: 8:15 a.m.–4:45 p.m. local time

*Honolulu, Hawaii Office—Category A Office*

Office of the Manager, HUD—Honolulu Office, 7 Waterfront Plaza, 500 Ala Moana Boulevard, room 500, Honolulu, Hawaii 96813–4918, (808) 541–1323, TDD Number: (808) 541–1356, Office hours: 8 a.m.–4 p.m. local time

*Los Angeles, California Office—Category A Office*

Office of the Manager, HUD—Los Angeles Office, 1615 West Olympic Boulevard, Los Angeles, California 90015–3801, (213) 251–7122, TDD Number: (213) 251–7038, Office hours: 8 a.m.–4:30 p.m. local time

*Sacramento, California Office—Category B Office*

Office of the Manager, HUD—Sacramento Office, 777 12th Avenue, Suite 200, P.O. Box 1978, Sacramento, California 96814–1997, (916) 551–1351, TDD Number: (916) 561–1367, Office hours: 8 a.m.–4:30 p.m. local time

*Phoenix, Arizona Office—Category B Office*

Office of the Manager, HUD—Phoenix Office, Two Arizona Center, Suite 1600, 400 North 5th Street, Phoenix, Arizona 85004–2361, (602) 261–4434, TDD Number: (602) 379–4461, Office hours: 8 a.m.–4:30 p.m. local time

*Phoenix, Arizona—Office of Native American Programs*

Administrator, HUD—Phoenix Office of Native American Programs, Two Arizona Center, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TDD Number: (602) 379–4461, Office hours: 8:15 a.m.–4:45 p.m. local time

*Region X*

Jurisdictions: Alaska, Idaho, Oregon, Washington.

*Seattle, Washington—Regional Office*

Regional Administrator, Regional Housing Commissioner, HUD—Seattle Regional Office, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, (206) 220–5101, TDD Number: (206) 220–5185, Office hours: 8 a.m.–4:30 p.m. local time

*Seattle, Washington—Office of Native American Programs*

Administrator, HUD—Seattle Office of Native American Programs, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, (206) 220–5270, TDD Number: (206) 220–5185, Office hours: 8 a.m.–4:30 p.m. local time

*Portland, Oregon Office—A*

Office of the Manager, HUD—Portland Office, 520 S.W. 6th Avenue, Portland, Oregon 97203–1596, (503) 326–2561, TDD Number: (503) 326–3656, Office hours: 8 a.m.–4:30 p.m. local time

*Anchorage, Alaska Office—Category A Office*

Office of the Manager, HUD—Anchorage Office, University Plaza Building, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4170, TDD Number: (907) 271–4328

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Part IV

# Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1904

Reporting of Fatality or Multiple Hospitalization Incidents; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. R-01]

## Reporting of Fatality or Multiple Hospitalization Incidents

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises regulation on Reporting of Fatality or Multiple Hospitalization Accidents. Along with numerous clarifications and several minor modifications, this revision makes three major changes to the former reporting requirements: First, whereas the former regulation applied to employment accidents which resulted in one or more fatalities or hospitalizations of five or more employees, the regulation is expanded to require the reporting of work related incidents resulting in the death of an employee or the hospitalization of three or more employees. Second, the regulation requires the employer to verbally report such incidents within 8 hours after the employer learns of it, instead of 48 hours by either written or verbal communication. Third, whether or not an incident is immediately reportable, if it results in the death of an employee or the in-patient hospitalization of 3 or more employees within 30 days of the incident, OSHA requires that the employer report the fatality/multiple hospitalization within 8 hours after learning of it.

The materials upon which OSHA has relied in drafting this final rule are available for review and copying in the OSHA Docket Office.

**DATES:** The new regulation will become effective on or before May 2, 1994.

**ADDRESSES:** In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the regulation, the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, room S4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

**FOR FURTHER INFORMATION, CONTACT:** Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, room N-3647, 200 Constitution Avenue NW., Washington, DC 20210, phone (202) 219-8148.

**SUPPLEMENTARY INFORMATION:** In this preamble, OSHA identifies sources of information submitted to the record by an exhibit number (Ex. 2). When applicable, comment numbers follow the exhibit in which they are contained (Ex. 2: 1). If more than one comment within an exhibit is cited, the comment numbers are separated by commas (Ex. 2: 1, 2, 3). For quoted material, page numbers are cited if other than page one (p. 2).

### I. Background

The requirements in 29 CFR 1904.8, Reporting of fatality or multiple hospitalization accidents—often referred to as FATCAT (fatality/catastrophe) reports—have remained essentially unchanged since they were initially adopted in 1971. The present requirements read as follows:

> Within 48 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

OSHA, or States operating OSHA-approved State plans, investigate such incidents in order to provide the Agency with information on the causes of employment fatalities, injuries and illnesses to identify and require correction of serious hazards and to prevent the occurrence of such incidents in the future. Such information can also be a source of support for new and revised safety and health standards. Investigators will determine whether there was a violation of OSHA standards, and, if so, whether the violation may have contributed to the incident. In addition, the Agency determines whether OSHA standards adequately cover the hazards which led to the incident. Therefore, such investigations must be prompt and thorough if they are to provide valid, useful information and achieve their intended purposes.

For many years, OSHA has considered whether changes are needed in § 1904.8 to enable the Agency to conduct more effective workplace investigations. In October, 1979, OSHA published a notice of proposed rulemaking (44 FR 59560) that contained several suggested changes to the current requirements of § 1904.8. The reporting changes included in the proposal were the following: A reduction in reporting time from 48 hours to 8 hours; the establishment of a OSHA toll-free phone number, to be used in reporting incidents which occur on evenings and weekends; and a requirement for employers to report fatalities which occur within 6 months of an employment incident. A 30-day written comment period was established, which was later extended to December 17, 1979. OSHA received 258 written comments during the comment period. During the review of the comments OSHA's priorities changed and work on the final rule was suspended indefinitely. Consequently no final rule was issued as a result of the 1979 rulemaking action.

Since that proposal was published, OSHA has determined that there are many other provisions in part 1904, Reporting and Recording Occupational Injuries and Illnesses, which should be considered for amendment or revision, in order to improve the quality of the data provided to the Agency and enhance OSHA's ability to gather useful information on the causes of employment injuries and illnesses. Accordingly, the Agency has decided to undertake a complete revision of part 1904, to be accomplished in two steps: The first step involves changes in § 1904.8, dealing only with reporting of fatalities and multiple hospitalizations. The second step will involve the issuance of a proposal covering the remainder of part 1904. Separating the § 1904.8 proposal from the overall revision of part 1904 enables OSHA to make the necessary changes in § 1904.8 as soon as possible.

Because so much time had elapsed since the previous proposal was published, the Agency was concerned that the record was outdated, and more timely information was needed. Accordingly, OSHA withdrew the 1979 proposed rule in favor of the recent proposal for this final rule published in the **Federal Register** on May 19, 1992 (57 FR 21222). Most of the elements of the 1979 proposed rule were carried forward in the recent proposal. OSHA received a total of 110 written comments in response to the 1992 proposal and has subsequently drafted this final rule.

### II. Agency Action

OSHA believes that reducing the reporting period and increasing the number of serious incidents reported is critical for the Agency to respond quickly and inspect for hazardous conditions that may pose a risk to other workers at the worksite. Moreover,

prompt inspections will enable OSHA to determine whether its current standards adequately cover the hazards involved in the incident. OSHA will also gather better information on the causes of incidents which can be used to identify serious hazards, prevent incidents in the future, and form the basis for revised standards. Increasing the number of serious incidents reported will present OSHA the opportunity to inspect a greater number of hazardous worksites. In conclusion, OSHA has determined that the revision of the requirements of 29 CFR 1904.8, as reflected in this final rule, will provide information necessary to help ensure American workers safe and healthful workplaces.

**III. Summary and Explanation of the Proposed Rule**

This section contains an analysis of the evidence comprising the official record, along with related policy decisions pertaining to the various provisions of the regulation.

This rule makes a number of changes and clarifications in the requirements of § 1904.8 which are discussed below.

*1. Reducing the Reporting Period From 48 Hours to 8 Hours*

Employers are required to report, within 8 hours after their occurrence, incidents which result in a worker fatality or multiple hospitalizations. The previous requirement allowed 48 hours to elapse before the fatality/catastrophe had to be reported.

Reducing the reporting period from 48 hours to 8 hours enables OSHA to inspect the site of the incident and interview personnel while their recollections are more immediate, fresh and untainted by other events, thus providing more timely and accurate information pertaining to possible causes (Ex. 2: 15, 47, 94). The shorter reporting time also makes it more likely that the incident site will be undisturbed, affording the investigating compliance officer a better view of the worksite as it appeared at the time of the incident (Ex. 2: 11, 15, 47, 55, 94, 107). The 8-hour criteria also coincides with a "standard work shift" for most employers and thus provides a logical cut-off point for fulfilling the reporting requirement.

The Office of the District Attorney for Milwaukee County (Ex. 2: 15) observed:

> The current time reporting requirement of forty-eight hours materially handicaps the capability of investigators to accurately establish what transpired * * * the sooner a witness is interviewed the better is his or her memory and the less likely that he or she will color testimony to favor a particular position * * *. At our request, the medical examiner and the police and fire departments promptly notify our office of work site deaths and severe injuries * * *. I firmly believe that (the) practice of prompt investigation in Milwaukee County has been of great benefit to OSHA investigators in Wisconsin as well as to our own investigators.

OSHA solicited comments on the proposed 8-hour time period, the feasibility of a 4-hour time period, and other possible reporting periods which might be of equal or greater effectiveness in improving the Agency's information gathering capabilities.

The majority of comments received on this issue suggested that OSHA adopt a 24-hour reporting period (Ex. 2: 1, 9, 18, 19, 28, 29, 34, 35, 39, 41, 43, 45, 48, 50, 57, 58, 60, 64, 73, 74, 75, 77, 78, 79, 83, 85, 87, 89, 90, 92, 93, 97, 99, 100, 101, 103, 106). The rationale expressed by the Chevron Corporation (Ex. 2: 75, p. 2) is representative of many of the comments received:

> * * * If OSHA perceives a need to be notified in less time (than the current 48 hours), then Chevron supports a 24-hour requirement as being adequate and reasonable. A 24-hour requirement would also be consistent with many state and U.S. Department of Transportation Regulations (49 CFR 394.7).
>
> An 8-hour requirement, however, would in some instances be unreasonable and might create greater hazards for certain situations encountered in our industry. An accident that involves a process upset, significant potential for environmental damage or human exposure to potentially harmful materials, requires the employer to acquire and focus all available resources to stabilize and secure the scene. These actions must come first and should not be altered by regulatory reporting requirements.

The National Utility Contractors Association (Ex. 2: 103, p. 1–2) stated:

> NUCA considers the proposed 8-hour employer reporting deadline inappropriate and unrealistic in the immediate aftermath of a serious mishap. In the wake of a mishap, the employer has more important responsibilities than the fulfillment of a federal reporting requirement. For example, he or she must deal with emergency services, anxious workers, and sometimes distraught family members * * * NUCA suggests that the reporting period be reduced from 48 to 24 hours, which would allow for more timely inspection, without unnecessarily distracting the employer from other responsibilities that are clearly preeminent.

On the other hand, several organizations requested a required reporting period of 4 hours or less (Ex. 2: 13, 21, 84, 105). The American Nurses Association (Ex. 2: 105, p. 1–2) observed:

> We would support a Federal Policy which reflects the reporting requirements of the California regulations which require immediate reporting of every case involving a serious injury or illness (medical treatment beyond first aid) or death. In many cases such occurrences are serious threats to the health and safety of other workers.
>
> Immediate reporting and follow-up can significantly reduce risk to others still in the environment. Moreover, such a requirement would provide leadership to the states and send a clear signal of OSHA's intent to collect data and develop standards to best protect the American workforce.
>
> Therefore, in response to your question related to a shorter reporting requirement, ANA would support immediate reporting of the incidents described. We note that California requires immediate reporting and Utah has a 1-hour reporting requirement. We support OSHA's concern that the current 48-hour reporting requirement results in a delay which can hamper effectiveness. We agree that prompt investigation is critical.

The National Institute for Occupational Safety & Health (Ex. 84, p. 2) remarked:

> NIOSH supports a reduction in the time allowed to report the occurrence of a serious incident. California OSHA requires the "immediate" reporting of "every case involving serious injury or illness (medical treatment beyond first aid) or death" and Utah OSHA requires reporting "fatalities within one hour" (58 FR 21224). If these states are achieving compliance with these requirements, OSHA should consider a reporting requirement of less than 8 hours. At a minimum, OSHA should require immediate reporting of a serious incident, not to exceed the shortest time period OSHA determines is reasonable.

In addition, several organizations suggested that the 48-hour reporting requirement was sufficient to serve the purpose for reporting serious incidents (Ex. 2: 2, 25, 44, 46, 52, 61, 63, 66, 71, 76, 82, 86, 89, 98, 109). Trinity Industries (Ex. 2: 61) stated:

> When a fatality has occurred at the beginning of a second shift, or on a weekend or holiday, it can take considerable time for the job foreman to reach his plant manager or another responsible management representative who is authorized to report the accident to OSHA. Based on our own experience, it is not always possible to report a fatality within 8 hours. We believe that changing the reporting time to eight hours is unrealistic and will impose unfair exposure to penalties for failure to report a fatality. For that reason, we request that the reporting time not be changed.

Boise Cascade (Ex. 2: 2) noted:

> Boise Cascade, as well as all American industry, has introduced systems to ensure immediate notification of accidents. Employers want and need to know in order to allow appropriate investigation and corrective actions. The primary objective of employers is to ensure the best medical care for the injured, the safety of other employees involved in accidents, and avoidance of future and similar accidents * * *. The

current reporting time frame provides for adequate time to handle the needs of injured employees, deal with workers' compensation laws, control damage, counsel employees, and handle reporting to OSHA.

Finally, of those who either supported or would support the 8-hour rule under certain circumstances, S C Johnson Wax (Ex. 2: 7) noted the following:

* * * Regarding the proposed 8-hour period for reporting. We believe this should provide adequate time for a preliminary report to be prepared by an employer; it would not be sufficient, however, for performing an in-depth investigation as to the cause of the accident. As long as preliminary information will fulfill OSHA's requirement, this time limit should not be a significant problem for an employer to meet.

OSHA strongly believes that the combination of cited benefits of prompt investigation, the enforcement by states such as California and Utah of more stringent requirements, and the minimal burden imposed on American business by the proposed change as outlined in section IV of this preamble, clearly justifies setting the required reporting time frame at 8 hours. This will allow for more timely investigation and provide for the possibility to more effectively reduce the risk of injury to other workers, decrease the opportunity for circumstances at the incident site to change, and witnesses' recollections of the incident will be more fresh and clear. These factors will increase OSHA's effectiveness in investigating the causes of reported workplace incidents, and at identifying and controlling the hazards which caused the fatalities or serious injuries or illnesses. Prompt investigation of incidents is also a key element in OSHA's ability to enforce existing standards and to evaluate the need for new standards.

*2. Reducing the Reporting Threshold From Five Hospitalizations to Three Hospitalizations*

Incidents which result in three or more hospitalized employees are to be reported. The former rule required the reporting of five or more hospitalized employees. Of those who commented upon this change, the majority supported OSHA's proposal (Ex. 2: 1, 9, 11, 13, 17, 18, 19, 21, 39, 41, 50, 55, 60, 63, 64, 68, 75, 76, 77, 83, 84, 87, 88, 90, 91, 94, 98, 99, 103, 107). Muscatine General Hospital (Ex. 2: 39, p. 3) observed:

We feel that lowering the number of severely injured employees from 5 to 3 is a positive step. This will, more than likely, increase the number of reported cases; however, it should allow for more accurate information to assist OSHA in determining the causes of workplace accidents.

The American Association of Occupational Health Nurses (Ex. 2: 60, p. 2) stated:

AAOHN supports the proposed rule change that requires the reporting of every employment accident that results in three or more hospitalized employees. Three or more injuries are significant enough to warrant early investigation.

In addition, several organizations called for the reporting of fewer than three hospitalizations (Ex. 2: 11, 13, 21, 84, 88). NIOSH (Ex. 2: 84, p. 2) offered this reasoning:

NIOSH recommends that all occupationally related incidents that require hospitalization (including those that repeat over time from the same source) be reported regardless of the number of workers affected by any one incident. The proposed requirement by OSHA for the employer to report incidents only when there are at least 3 or more in-patient hospitalizations within an 8-hour period would not cover many incidents that should be reportable. Under this requirement, it is possible that one or two workers could be exposed to hazardous conditions necessitating hospitalization, but the incident would not have to be reported. Even if these one or two workers were repeatedly hospitalized, the employer would not be required to report the incidents * * * and the detection of this pattern of injury would not be possible.

The Service Employees International Union (Ex. 2: 88, p. 2) stated:

Extend reporting to cover the hospitalization of one or more employees. In the proposed revisions, OSHA would limit reporting of injuries to "accidents" which occurred at a single point in time and affected three or more employees. This proposed revision ignores repeated incidents in which there is only one affected employee.

On the other hand, there were a number of submitted comments opposing the proposed requirement of reporting the hospitalization of three or more employees (Ex. 2: 16, 51, 57, 62, 66, 89, 101). The Pacific Maritime Association (Ex. 2: 51, p. 1–2) noted:

The urgency to investigate three or more hospitalizations, as opposed to five or more, is not justified. We feel that this is a totally arbitrary number. In the preamble to the current proposal, OSHA states that "the expanded reporting requirement is expected to generate less than 200 additional reports per year." We fail to see how this could significantly "* * * provide OSHA with more accurate information on the causes of workplace accidents * * *" We suggest that this number either be reconsidered with some justification, or remain at five or more.

The Timber Operators Council (Ex. 2: 66) remarked:

Lowering the minimum hospitalizations from five to three may create problems with tracking employees, since some injured workers are not immediately admitted to a hospital. An accident that sends five employees to a hospital is a catastrophic accident. Employers would likely be informed of and able to track such an occurrence. This is not always the case with accidents resulting in three or more hospitalizations, especially when employees may delay going to the hospital.

The revised rule also clarifies that an employee is "hospitalized" when that employee is admitted to the hospital on an "in-patient" basis. Accordingly, emergency room and all other forms of out-patient care are excluded from the reporting requirement. The use of "in-patient hospitalizations" for reporting purposes assures that only the more serious incidents are reported. These clarifications received considerable support from the submitted comments (Ex. 2: 34, 35, 38, 39, 41, 59, 61, 63, 64, 75, 76, 77, 79, 80, 83, 85, 90, 91, 92, 93, 94, 98, 99, 101, 103, 109). The Chemical Manufacturers Association (Ex. 2: 92, p. 2–3) observed:

Specifying that hospitalization refers to the admission to the hospital on an "in-patient" basis helps to avoid confusion.

One way to further clarify this definition is to specify that "hospitalization as an in-patient" does not include admittance for observation. Employees admitted for observation may not be injured, but are usually being monitored on a precautionary basis * * * If, during the observation period, it is determined that the employee is injured and needs medical treatment, then that employee would be considered hospitalized for purposes of reporting the accident to OSHA.

CMA's recommendation is consistent with the current Bureau of Labor Statistics' Recordkeeping Guidelines for Occupational Injuries and Illnesses.

The American Petroleum Institute (Ex. 2:90) gave a similar observation:

* * * we strongly recommend that employers not be required to report in-patient hospitalizations for observation only.

OSHA already recognizes the validity of this approach in the recordkeeping criteria, which do not require hospitalizations for observation-only to be recorded on the OSHA log. API believes § 1904.8 and the OSHA recordkeeping requirements should be consistent.

Meanwhile, two sets of comments called for a more stringent criteria than "in-patient" hospitalization (Ex. 2: 54, 69). The International Brotherhood of Painters & Allied Traders (Ex. 2: 69) stated:

Due to the nature of many now treatable as out-patient, but serious, injuries and illnesses, this proposal creates a void in data that is imperative to have.

The New York State Nurses Association (Ex. 2: 54) commented:

We would recommend an additional clarification to the term "hospitalization"

include the wording "on an in-patient basis or recommended for in-patient treatment" in that all persons that admission is recommended as the most appropriate form of treatment do not heed that advice.

OSHA believes that the term "in-patient" should not be further qualified by an additional criteria regarding the kind of treatment an employee requires after the admission. This additional burden upon the employer to track activities after admission is not justified and would likely lead to unnecessary confusion and delays in reporting. Therefore, once three or more employees are admitted to the hospital as in-patients the 8-hour requirement would begin.

In summary, OSHA believes the lowering of the reportable number of hospitalizations from five to three will provide the Agency with additional information on the causes of workplace incidents by increasing the number and broadening the range of incidents which it will investigate. This will assist OSHA in evaluating the effectiveness of present regulations and the need for revised or new requirements. OSHA also believes that any additional burden imposed by the requirement will be minimal. OSHA estimates approximately 200 additional reports requiring 15 minutes per report will be generated by the new requirements. This estimation is based on the evaluation and extrapolation of data available from State Plan States with more stringent reporting requirements (i.e. reports of one or more hospitalizations).

*3. Time Limits for Incident Reporting*

If the employer does not learn of a reportable incident at the time of its occurrence, the allotted reporting time begins as soon as the employer does obtain this information. The previous rule did not contain specific language to address this type of situation, which can occur, for example, when an employee is traveling on company business and is not in contact with the employer. OSHA received support for this clarification (Ex. 2: 38, 60, 63, 76, 83, 84, 93, 101, 103, 109). The American Subcontractors Association (Ex. 2: 109, p. 2) remarked:

> * * * ASA strongly recommends that OSHA retain the language in the proposed rule which states that an employer should report such a fatality "after learning of the fatality." This is a reasonable request which alleviates the problem of requiring employers to report a fatality about which they may have no knowledge.

Numerous organizations expressed their concern that the "person responsible" for reporting incidents to OSHA or a person of authority will not learn of the incident until after an eight hour period (Ex. 2: 12, 25, 28, 34, 38, 39, 40, 63, 68, 71, 82, 83). Many felt that the reporting time frame should begin when such a person learns of the incident. General Dynamics (Ex. 2:63, p. 2) stated:

> It is suggested that the clarification should be "* * * that the allotted time begins as soon as the responsible representative of the employer does obtain this information". In large, complex organizations the time for information flow within the employer in these cases would easily exceed 8 hours from the first representative of the employer to the one with responsibility to inform OSHA, to obtain information.

Two organizations expressed the opinion that employers should always have the capability to meet the reporting requirement.

The AAOHN (Ex. 60, p. 2) stated:

> Businesses should develop and communicate clear policies about accident notification and reporting to which all employees must adhere. For example, every one, through every level of responsibility, must know what to do when accidents occur.

The International Brotherhood of Painters & Allied Trades (Ex. 2: 69) observed:

> Ambiguous language would be addressed in the clarification on reporting for an accident when an employer first learns of the incident. However, we do insist that there should be a person made responsible for notification during times of an employers absence as the employer, even when not on site, always has a designated authoritative representative present.

Under today's final rule, there is an obligation to report a qualifying fatality or hospitalization to OSHA if any agent or employee of the employer becomes aware of the incident. It is the employer's responsibility to assure that appropriate instructions and procedures are in place to assure that corporate officers, managers, supervisors, medical/health personnel, safety officers, receptionists, switchboard personnel, and other employees or agents of the company who may be in a position to learn of employee deaths or hospitalizations are aware of the company's responsibility to make a timely report. Given the minimal amount of information required (establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident), OSHA believes eight hours, a period roughly corresponding to one complete shift during a typical industrial day, is more than adequate time to fulfill this reporting requirement.

*4. Time Limits for Fatalities/Multiple Hospitalizations Not Immediately Reportable*

Today's final rule specifies that even if an employment incident is not immediately reportable, if such an incident results in a death of an employee or the in-patient hospitalization of 3 or more employees within 30 days after the incident occurs, the employer is required to report such fatality/multiple hospitalization within 8 hours after learning of it. This clarifies the previous version of 29 CFR 1904.8 which required that fatalities/multiple hospitalizations be reported, but set no explicit outside time limit for the reporting of fatalities/multiple hospitalizations which did not occur immediately.

OSHA solicited comment on whether the proposed six-month time frame for reporting fatalities was appropriate and received a wide variety of comments and recommendations.

The suggested time frames for reporting delayed deaths ranged from 1 week after the incident to indefinitely. Several organizations were supportive of the proposed six month period (Ex. 2: 9, 15, 38, 60, 63, 69, 75, 77, 101) stating that six months is an appropriate time frame.

The majority of those who commented upon the subject, however, called for a shorter time frame (Ex. 2: 19, 35, 39, 41, 51, 57, 59, 62, 64, 66, 82, 83, 85, 91, 92, 94, 98) ranging from one week to three months. The American Trucking Associations (Ex. 2: 57, p. 6) remarked:

> NHTSA studies found that 98% of traffic fatalities occur within that 30-day period. ATA believes that this is also probably true of fatalities in the workplace. A reporting requirement which captures 98% of the available data is adequate * * * ATA recommends that the requirement for follow-up reporting of workplace fatalities be limited to those fatalities which occur within 30 days of the accident.

Many of those calling for a shorter time period, made the arguments that investigations performed six months after the incident occurred would reveal little useful information and work relationship would be difficult to determine (Ex. 2: 19, 27, 39, 41, 45, 51, 59, 62, 64, 66, 68, 77, 82, 83, 85, 86, 87, 92, 94, 96, 101, 103). ChemDesign Corporation (Ex. 2:82, p. 3) observed:

> Surely after 1 month, the equipment, other physical circumstances and witnesses' memories would have changed to such a degree that subsequent investigation by OSHA would be of limited usefulness. One month should also cover almost all directly related fatalities as well as eliminate from

consideration most of those that would be questionable.

Only three organizations called for a longer time frame for reporting delayed fatalities (Ex. 2: 13, 54, 84). The United University Professions (Ex. 2:13, p. 2) called for an indefinite time frame for the following reason:

* * * Because of present-day medical expertise, an expertise that seems to be growing every day, life is being prolonged for greater and greater periods of time. Because of such life-prolonging techniques, cut-off periods for reporting will surely lapse in too many cases. Therefore, the result will be that too many work-related deaths will go unreported. Unfortunate as any death may be, all workplace-related deaths must be reported and investigated.

After review of the comments submitted to the docket and further analysis of the facts and opinions stated within the comments, OSHA now feels that information gathering after a 30 day period would not be productive for compliance and hazard identification purposes. The "accident scene" would likely be altered beyond the point of providing any useful information for evaluation purposes. For statistical purposes, OSHA believes that work related fatalities delayed after a 30 day period will be identified by other government information systems such as the National Traumatic Occupational Fatalities and the Census of Fatal Occupational Injuries programs.

*5. Applicability to Both Current and Former Employees*

In the proposed rule, OSHA asked if the requirement should be limited to injured workers who continue to be employed by the employer where they were injured. Both supportive and opposing comments were received (Ex. 2: 5, 29, 35, 54, 60, 64, 68, 77, 90). Gilbane Building Company (Ex. 2: 5) expressed a concern for relating to problems associated with tracking former employees in the construction industry:

There are many circumstances within the construction industry that preclude knowledge by the employer that worker (at the time of the accident) has died sometime following the accident. Particularly in cases where the worker has gone on to other employment and another employer may have been the cause of the fatality. OSHA is presupposing that the employees are long-term employees of an employer. In the construction industries, this is definitely not the case.

I would suggest adding a line stating that this only applies if the worker remains as an employee.

The American Association of Occupational Health Nurses (Ex. 2: 60, p.3) responded that former employees should be included:

The requirement should cover workers who continue to work for the employer after the injury as well as former employees who no longer work for the employer.

AAOHN believes that no extraordinary steps should be taken to track injured employees once they leave the employer. However, until workers' compensation and disability issues are resolved, employers would be aware.

OSHA agrees with the assessment of the occupational health nurses that reporting requirements under 29 CFR 1904.8 should apply whether or not the affected worker is technically a current employee of the employer for whom he worked when the incident occurred. OSHA believes that in the vast majority of cases the employer would be notified via worker's compensation or other insurance mechanisms of the subsequent death of any former employees from causes arising during employment with that company. Moreover, the reduction of the period during which reporting is required from 6 months in the proposed rule to 30 days in the final rule should greatly reduce concerns expressed in some of the comments that the tracking of former employees would place an undue burden on employers.

Some concern was expressed relating to the responsibilities of the worker's current employer if different from the employer at the time of the injury. These reporting requirements apply only to the employer at the time of the injury.

Finally, a significant number of organizations expressed their disagreement with the rationale used to require reporting of delayed deaths within 8 hours of learning of such an occurrence (Ex. 2: 9, 18, 27, 29, 35, 38, 51, 60, 61, 62, 63, 64, 75, 76, 77, 82, 83, 87, 92, 96, 101). The Aluminum Company of America (Ex. 2: 27) observed:

ALCOA objects to the eight-hour reporting requirement for an accident "which results in a fatality within six months after" the accident, as this stringent time frame for reporting is not consistent with the Agencies objectives.

The stated objectives of the revision are to assure more complete and timely information, to assure that the circumstances at the accident site don't change, and witness recollections don't change, etc. When up to six (6) months may have passed, it is unlikely that imposing an 8 hour vs. 48 hour time frame for reporting would make a significant difference. Therefore, the stringent reporting requirement should be modified accordingly to be more realistic and impose less of an administrative burden on the employer.

OSHA agrees with this assessment for the reasons stated. As discussed above, OSHA has modified its original proposed requirement for reporting deaths/multiple hospitalizations which are delayed from six (6) months to thirty (30) days. OSHA feels that this reduction will consequently alleviate much of the administrative burden discussed by ALCOA above. The Agency also believes that the potential confusion created by dual reporting requirements, i.e. 8 hours for one situation and 48 hours for another, would outweigh the benefits gained by extending the reporting time period for certain situations. Therefore, if the fatality/multiple hospitalization occurs within thirty days of the incident the employer is required to report the incident within 8 hours of learning of the fatality/multiple hospitalization.

*6. Procedures for Making Reports to OSHA*

In order to meet the reporting requirements in 29 CFR 1904.8, the employer must either: (1) Make his or her report orally, by telephone or in person, to the Area Office of the Occupational Safety and Health Administration located nearest to the site of the incident, or (2) contact OSHA using its toll free telephone number. It should be noted that neither media coverage, nor reports to insurance carriers or others constitute reporting to OSHA as required under this regulation. The information that must be supplied in the report is as follows: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

OSHA received comments suggesting the use of facsimiles and/or a toll free number to meet the reporting requirements. Organizations also called for OSHA to provide some form of documentation to the employer showing proof of compliance.

Specifically, the availability of a toll free number for meeting the reporting requirements received much support (Ex. 2: 5, 12, 13, 17, 19, 21, 27, 30, 45, 51, 57, 59, 65, 74, 76, 82, 83, 84, 85, 87, 91, 94, 99). Amoco (Ex. 2: 83, p. 2) stated:

We suggest that a single, centralized, toll-free, 24-hour telephone number for the notification nationwide of reportable incidents, similar to that used by the National Response Center for environmental incidents, would serve the regulated public. OSHA's central office would then transmit the pertinent information to the correct area office, and to any other agencies with a need to know. Such a system would facilitate

error-free communication as a consequence of its simplicity, particularly for smaller businesses and facilities which may be functioning in a crisis mode at the time of reporting. In addition, one centralized number would obviate the need in each area office for a separate toll-free line or other specialized communication equipment.

The National Turkey Federation (Ex. 2: 94, p. 3) added:

* * * NTF believes that a toll free 800 number will enhance the reporting abilities of industry, particularly for those businesses located in Areas not equipped to receive reports 24 hours per day. Furthermore, it will become much easier for businesses to establish company-wide policies which have a single phone number to use in accident reporting.

Several organizations saw no need for instituting a toll-free number (Ex. 2: 60, 75, 77, 90, 92, 98, 101, 103) for reporting purposes. The American Petroleum Institute (Ex. 2: 90, p. 5) expressed its opinion towards the use of a toll-free number as follows:

Reporting to the OSHA area office, as OSHA proposes, would seem to be the more reasonable approach * * * It would provide information directly to the office where action, if any, would be taken. It would facilitate direct two-way communications between those providing the information and those needing it, thereby saving time for both employers and OSHA. It would preclude special handling and the added expense for OSHA to relay information from a central location to the area offices—a practice which could introduce errors and omissions. And lastly, employers can easily obtain the number of the nearest OSHA office from phone books or from directory assistance. For the reasons above, we believe a toll-free number is not needed.

In addition, reporting by the use of facsimile machines was an option called for by many organizations (Ex. 2: 7, 16, 21, 27, 37, 38, 51, 57, 59, 61, 64, 65, 74, 75, 77, 79, 81, 82, 83, 85, 87, 90, 92, 96, 98, 101, 103, 109). The Society of the Plastics Industry, Inc. (Ex. 2: 81, p. 3) observed:

Permitting companies to report by facsimile—or by courier or any other method with which the delivery of the written communication within the specified time period could be verified—would satisfy not only OSHA's objectives, but would give companies the necessary flexibility to report most appropriately under varying circumstances and to satisfy their own internal need for documentation of compliance.

OSHA does not agree that reporting by facsimile will meet its objectives in every case. If an incident occurred late on a Friday evening, and the employer used the facsimile machine to meet the reporting requirements, OSHA would most likely not learn of the incident until the following Monday morning. Telephone answering machines, if available, would be similarly deficient. For this reason, OSHA requires that these reporting obligations be met through direct verbal contact with the Area Office or by utilization of the OSHA toll-free number. In this manner a timely decision can be made regarding investigation of the scene.

Finally, a number of organizations requested that some sort of verification of compliance be given to the employer upon reporting a fatality or multiple hospitalization (Ex 2: 10, 17, 44, 57, 60, 64, 74, 75, 83, 89, 90, 93, 96). The Dow Chemical Company (Ex. 2: 93, p. 2) remarked:

Dow is also concerned with receiving confirmation of reports made to OSHA. With a shortened reporting period, reports may often be made after working hours. The Dow Chemical Company would like some method of verification that a report has been received by OSHA.

OSHA agrees with this assessment and while employers may certainly fax, mail, hand deliver etc. the information to OSHA as a backup procedure, the Agency will investigate other methods of providing proof of compliance—e.g. assigning report confirmation numbers.

## IV. Regulatory Impact Assessment

The revised regulation, like the present 1904.8, applies to all employers within OSHA's jurisdiction, including general industry, construction, shipyard employment, longshoring, marine terminals, and agriculture.

OSHA has determined that a Regulatory Impact Analysis (RIA) is not required for this regulation because the regulation is not a "significant regulatory action" as defined by E.O. 12866.

Under the Executive Order a significant regulatory action must meet at least one of the following conditions:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Based on the paperwork requirements identified below in Section IX, OSHA estimates the total national cost of this revision to the affected employers will be approximately $1500 per annum (i.e. 200 additional reports requiring 15 minutes each multiplied by $30.00 per hour, the cost of a professional to complete the report). At this annual national cost, this regulation does not meet the economic impact criteria of the Executive order, nor does it present issues of the kind described in the remaining criteria. Accordingly, this final rule is exempt from the regulatory impact analysis requirements of Executive Order 12866.

## V. Regulatory Flexibility Assessment

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Assistant Secretary certifies that the rule will not have a significant adverse impact on a substantial number of small entities. OSHA estimates that of the additional 200 reports likely to be generated nationwide, only 52 will fall upon small business (i.e. 200 multiplied by .26, the percentage of the employment population represented by small businesses). OSHA estimates that the total cost to small business employers will be about $400 (i.e. 52 additional reports requiring 15 minutes each to complete multiplied by $30.00 per hour, the cost of a professional to complete the report). Thus, the rule will not have a significant adverse impact on a substantial number of small businesses.

## VI. Environmental Impact Assessment

In accordance with the requirements of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), Council on Environmental Quality NEPA regulations (40 CFR part 1500 et seq.), and the Department of Labor's NEPA regulations (29 CFR part 11), the Assistant Secretary has determined that this rule will not have a significant impact on the external environment.

## VII. Federalism

This rule has been reviewed in accordance with Executive Order 12612 (52 FR 41685), regarding Federalism. Because this rulemaking action involves a "regulation" issued under section 8 of the OSH Act, and not a "standard" issued under section 6 of the Act, the rule does not preempt State law, see 29 U.S.C. 667 (a).

## VIII. State Plans

The 25 States and territories with their own OSHA approved occupational safety and health plans must adopt a comparable rule. These 25 States are: Alaska, Arizona, California, Hawaii,

Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming; and Connecticut and New York (for state and local Government employees only). 29 CFR 1952.4 requires that such States with approved State plans under section 18 of the OSH Act (29 U.S.C. 677), must adopt recordkeeping and reporting regulations which are "substantially identical" to those set forth in 29 CFR part 1904. Therefore, the definitions used must be identical to ensure the uniformity of collected information. In addition, § 1952.4 provides that employer variances or exceptions to State recordkeeping or reporting requirements in a State plan State must be approved by the Bureau of Labor Statistics. Similarly, a State is permitted to require supplemental reporting or recordkeeping data, but that State must obtain approval from the Bureau of Labor Statistics to insure that the additional data will not interfere with "the primary uniform reporting objectives." The responsibilities of the Bureau of Labor Statistics for the reporting requirements covered by this final rule were transferred to OSHA as part of a memorandum of understanding between OSHA and BLS effective January 1, 1991.

In accordance with § 1952.4, OSHA has allowed the States to vary from the "substantially identical" requirement in certain, limited circumstances, such as 1904.8 reports, as long as the State requirements were at least as effective as the Federal requirements as it relates to fatality and multiple hospitalization reporting. As discussed above, a number of the States have adopted fatality/catastrophe reporting requirements more stringent than those of OSHA.

## IX. Paperwork Reduction Act

This rule contains a "collection of information" requirement pertaining to the procedures for employers to report employment fatalities and multiple hospitalizations. This requirement has been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and 5 CFR part 1320.

Reporting by employers under this collection of information requirement is estimated to average 15 minutes per report. The time involved is for calling either the OSHA Area Office or utilizing the OSHA toll-free number and reporting the fatality or multiple hospitalizations.

Interested persons may submit comments regarding this burden estimate or other aspect of this collection of information to the OSHA Docket Office, Docket No. R–01, Occupational Safety and Health Administration, room N–2625, 200 Constitution Avenue NW, Washington, DC 20210, and to the OSHA Desk Officer (RIN 1218–AB28), Office of Management and Budget, Washington, DC 20503.

## X. List of Subjects in 29 CFR Part 1904

Fatality, Multiple hospitalization, Notification of fatality, Occupational Safety and Health, Occupational Safety and Health Administration, Recordkeeping.

## XI. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, pursuant to sections 8(c), 8(g) and 24 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), Secretary of Labor's Order No. 1–90 (55 FR 9033), and 5 U.S.C. 553, 29 CFR part 1904 is hereby amended by revising § 1904.8 as set forth below.

Signed in Washington, DC, this 25th day of March 1994.

**Joseph A. Dear,**

*Assistant Secretary of Labor.*

## PART 1904—[AMENDED]

1. The authority citation for 29 CFR part 1904 is revised to read as follows:

**Authority:** Secs. 8, 24, Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 673), Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

Sections 1904.7 and 1904.8 also issued under 5 U.S.C. 553.

2. Section 1904.8 is revised to read as follows:

### § 1904.8 Reporting of fatality or multiple hospitalization incidents.

(a) Within 8 hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the employer of any employees so affected shall orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident, or by using the OSHA toll-free central telephone number.

(b) This requirement applies to each such fatality or hospitalization of three or more employees which occurs within thirty (30) days of an incident.

(c) Exception: If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, the employer shall make the report within 8 hours of the time the incident is reported to any agent or employee of the employer.

(d) Each report required by this section shall relate the following information: Establishment name, location of incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

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federal register

Friday
April 1, 1994

Part V

# Department of Transportation

**Research and Special Programs Administration**

**49 CFR Parts 107 and 171**

**Hazardous Materials Transportation Registration and Fee Assessment Program; Proposed Rule**

**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 107 and 171**

**[Docket No. HM–208A, Notice No. 94–4]**

**RIN 2137–AC50**

## Hazardous Materials Transportation Registration and Fee Assessment Program

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** In July 1992, RSPA published a final rule establishing a national registration and fee assessment program for persons offering for transportation or transporting certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. The fees collected under the registration program are to fund a grant program to enhance State, Indian tribal, and local hazardous materials emergency preparedness and response activities. This notice proposes certain changes to the current registration program which, if adopted, will become effective July 1, 1994, the beginning of the next registration year. The proposed changes would delay the requirement for foreign offerors to register and would specify that each person who offers for transportation or transports a hazardous material for which registration is required may offer or transport that material only if both the offeror and transporter are currently registered with RSPA. The intended effect of the latter proposed change is to enhance nationwide compliance with the registration requirements.

**DATES:** *Comments.* Comments must be received by May 2, 1994.

**ADDRESSES:** *Comments.* Address comments to Dockets Unit (DHM–30), Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590–0001. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The comment period is less than 60 days in order to ensure publication of a final rule before the July 1, 1994 start of the 1994–1995 registration year. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street S.W., Washington, DC 20590–0001. Office hours are 8:30 am to 5:00 pm Monday through Friday, except on public holidays when the office is closed.

**FOR FURTHER INFORMATION CONTACT:** Joseph S. Nalevanko, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Beth Romo, Office of Hazardous Materials Standards, (202) 366–4488, RSPA, Department of Transportation, 400 Seventh Street S.W., Washington, DC 20590–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On July 9, 1992, RSPA published a final rule under Docket HM–208 [57 FR 30620], establishing a national registration program, as mandated by Congress in the 1990 amendments to the Hazardous Materials Transportation Act (HMTA), 49 App. U.S.C. 1801 *et seq.*, for persons engaged in the offering for transportation or transportation of certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons currently subject to the registration program are required to annually file a registration statement with RSPA and pay an annual fee of $250 to fund a nationwide emergency response training and planning grant program for States, local governments, and Indian tribes, and a $50 administrative fee to offset DOT processing costs. The fee of $250 is the minimum amount permitted to be collected for purposes of funding the emergency response preparedness and planning grant program.

Under the authority of the HMTA, RSPA has developed and implemented a reimbursable emergency preparedness grant program. The regulations establishing this program were issued in a final rule entitled "Public Sector Training and Planning Grants" under Docket HM–209 on September 17, 1992 [57 FR 43062]. The purpose of the grant program is to provide funds, technical assistance, and support to States, Indian tribes, and political subdivisions to develop, implement, and improve planning and training programs for emergency responders in the public sector. RSPA utilizes a monitoring system to evaluate each training and planning program and ensure that funds are used in accordance with approved plans. The information obtained from effective monitoring is used to assist grantees in strengthening all planning and training to meet applicable Federal requirements.

As of January 1994, RSPA has awarded emergency preparedness grants to 47 States, the District of Columbia, three Territories, and seven Indian tribes. The funding for the grant program comes from the fees received from RSPA's registration program. Approximately 26,000 persons have registered with RSPA for the current registration year, substantially fewer in number than originally anticipated. RSPA is concerned that many persons who are required to register have not. Therefore, RSPA is proposing two compliance-related requirements in the NPRM to enhance nationwide compliance.

RSPA has implemented an extensive outreach effort to increase awareness of the registration requirement. Over 200,000 informational brochures have been distributed through direct mailing campaigns and during presentations to industry. RSPA's enforcement policy is designed to encourage compliance with the registration requirement and includes a request that each of the modal administrations establish a uniform approach to registration enforcement. DOT's current focus is on identifying persons subject to the registration requirement who have failed to register. Cases have been completed in most of the Federal Highway Administration's nine regions, resulting in civil penalties and increased compliance with the registration requirement among shippers and highway carriers. The Federal Railroad Administration also has an active enforcement program, and has identified and cited persons within its jurisdiction for failure to register, resulting in increased compliance.

Persons who are required to be registered but negligently fail to do so are subject to civil penalties of between $250 and $25,000 for each day they are in violation (49 App. U.S.C. 1809(a)). Persons who are required to be registered but willfully fail to do so are subject to five years' imprisonment and criminal fines of up to $250,000 for individuals and up to $500,000 for corporations (49 App. U.S.C. 1809(b)). These penalties are in addition to the requirement to pay the registration fee for each year the person has failed to register. RSPA, the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, and the U.S. Coast Guard are delegated authority to enforce the registration requirements and apply these penalty provisions. In addition, several States have adopted the registration requirements as State law or regulation and, therefore, also have authority to impose penalties for violations. Suspected violations of the registration requirements should be brought to the attention of Federal or

State enforcement agencies and specifically may be brought to RSPA's attention by calling RSPA's Registration Program Office at 202–366–4484.

*Scope of the Current Registration Program*

The current registration program is focused on persons who, under the HMTA, are under a statutory obligation to register with RSPA. Under 49 App. U.S.C. 1802 and 1805, each person who carries out one or more of the following activities must file a registration statement with RSPA and pay an annual registration fee:

(1) Transports or causes to be transported or shipped in commerce highway-route controlled quantities of radioactive materials;

(2) Transports or causes to be transported or shipped in commerce more than 25 kilograms (55 pounds) of Division 1.1, 1.2, or 1.3 (Class A or Class B explosives) materials in a motor vehicle, rail car, or transport container;

(3) Transports or causes to be transported or shipped in commerce more than one liter (1.06 quarts) per package of a hazardous material which has been designated by RSPA as extremely toxic by inhalation;

(4) Transports or causes to be transported or shipped in commerce a hazardous material in a bulk package, container, or tank if the package, container, or tank has a capacity equal to or greater than 13,248 liters (3,500 gallons) or more than 13.24 cubic meters (468 cubic feet); or

(5) Transports or causes to be transported or shipped in commerce a shipment in other than a bulk packaging of 2,268 kilograms (5,000 pounds) or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required.

RSPA has no authority to except from the registration requirements any person engaged in any of the foregoing activities.

*Fee Schedule Under the Current Program*

Under section 117A(h)(3) of the HMTA, and for purposes of funding the grant program, the amount of the annual fee which may be collected from a person required to register with RSPA may not be less than $250 nor more than $5,000. The current fee is a flat $300 for all persons required to be registered with RSPA. This basic registration fee represents a combination of the minimum $250 registration fee permitted under the HMTA plus a processing fee of $50. All registrants, regardless of the size of their companies, their levels of income, or the extent to which they engage in hazardous materials transportation activities, currently pay the same registration fee.

*Clarification of Registration Requirements for Owner-Operators*

Owner-operators of motor vehicles who are not under a 30-day or longer lease to another company and engage in any of the activities subject to the registration program must register with RSPA, pay an annual registration fee and carry proof of registration on board their vehicles. However, owner-operators of motor vehicles who are under a 30-day or longer lease to another company and engage in any of the activities subject to the registration program are not required to be registered with RSPA on their own behalf as a separate entity. Under current § 107.606(e), the latter owner-operators are "hazmat employees" of the company to whom they are under lease. Any company with whom the owner-operator is under lease must be registered with RSPA and pay the annual registration fee. That company must also ensure that proof of registration is carried on all vehicles under its operational control when used in any of the activities subject to the registration program. (See § 107.620(b).)

## II. Proposal

*Transporter and Offeror Responsibilities*

During the almost two years of registration operational experience, RSPA has received numerous inquiries from offerors and transporters subject to the registration program on the extent to which transporters accepting hazardous materials offered for transportation are required to determine whether a person offering such materials is registered with RSPA and, similarly, the extent to which offerors are required to determine whether their transporters are registered with RSPA. Although the current registration program does not contain such a requirement, RSPA is aware that many offerors and transporters do make such determinations. RSPA believes that this practice will help to ensure that all persons required to register and pay the fee are properly fulfilling this responsibility.

In view of these considerations, RSPA is proposing that each person who offers or transports a hazardous material for which registration is required may do so only if both the transporter and the offeror (if required) are registered. They would be required, on an annual basis, to obtain each other's registration number or a copy of each other's current Certificate of Registration. On the basis of comments on this proposal, RSPA may modify or expand this proposed requirement (e.g., by allowing certain alternate means of obtaining or providing proof of registration). Comments are solicited on this proposal and possible refinements of it.

*Foreign Offerors*

Under the HMTA, foreign offerors are defined as "persons" who are subject to the registration program to the extent that they engage in any of the activities covered by the registration program. However, because of the potential for reciprocal actions by other governments, and significant problems associated with informing and identifying the parties concerned, RSPA has delayed the application of the registration program to these entities until July 1, 1994. Both Houses of Congress are considering legislation which would grant DOT the discretionary authority to waive the registration or fee requirement for any person domiciled outside the United States, if that person's country does not impose registration or fee requirements on U.S. persons offering hazardous materials to that country (see, for example, H.R. 2178 which passed on November 21, 1993). Pending the outcome of these legislative initiatives, RSPA proposes to further extend the delay in application of the registration program to foreign offerors until July 1, 1996.

*Merchant Vessel Carriers*

Under § 107.601 of the current registration program, any foreign motor, rail, or airline carrier, or merchant vessel carrier transporting any of the specified hazardous materials subject to the registration program in or on U.S. territory, airspace or territorial seas is subject to the registration program and must register with RSPA before entering the United States with any of those hazardous materials. All registrants are required to maintain their Certificates of Registration at their principal places of business. Motor carriers, however, are also required to carry a document displaying their current registration number on board each vehicle used to transport hazardous materials that require registration. This requirement is to facilitate enforcement of, and compliance with, the registration requirements.

RSPA has determined that there is a need to further enhance the enforcement of the registration program, as it applies to foreign or domestic merchant vessel carriers. Accordingly, RSPA is proposing to require that each merchant vessel carrier carry a copy of its current Certificate of Registration issued by RSPA or another document bearing the

registration number identified as the "U.S. DOT Hazmat Reg. No." on board each merchant vessel carrying a hazardous material subject to the registration requirements.

### III. Summary of Regulatory Changes by Section

Part 107

*Section 107.601* Paragraph (e) would be revised to clarify the term "shipment" as it pertains to the scope of the registration program.

*Section 107.606* This section provides exceptions from the registration requirements. In paragraph (f), foreign offerors, including foreign subsidiaries of U.S. corporations, would be excepted from all registration requirements until July 1, 1996, an additional delay of two years.

*Section 107.608* Paragraph (a) would be amended to remove outdated provisions referring to the first registration year's compliance dates.

*Section 107.620* Paragraph (c) would be redesignated as paragraph (d). A new paragraph (c) would be added to require a merchant vessel carrier to maintain the Certificate of Registration on board each vessel carrying hazardous materials subject to the registration requirements or to annotate its registration number on any document readily available to enforcement personnel.

Part 171

*Section 171.2* A new paragraph (h) would be added to specify that each person who offers for transportation or transports a hazardous material for which registration is required may offer or transport that material only if both the offeror and transporter are currently registered with RSPA (if required) and the parties exchange registration numbers or a copy of each other's current Certificate of Registration.

### IV. Rulemaking Analyses and Notices

*A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore, was not reviewed by the Office of Management and Budget. The rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. A preliminary regulatory evaluation is available for review in the Docket.

*B. Executive Order 12612*

This action has been analyzed in accordance with Executive Order 12612 ("Federalism"). States and local governments may be "persons" under the HMTA, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Thus, preparation of a federalism assessment is not warranted.

*C. Regulatory Flexibility Act*

This proposed rule maintains the minimum fee requirement for small shippers and carriers of hazardous materials who are subject to the registration requirement. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

*D. Paperwork Reduction Act*

Under 49 App. U.S.C. 1805, the information management requirements of the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*) do not apply to this proposed rule.

*E. Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects**

*49 CFR Part 107*

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

*49 CFR Part 171*

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR parts 107 and 171 would be amended as follows:

## PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 would continue to read as follows:

**Authority:** 49 App. U.S.C. 1421(c), 1653(d), 1655, 1802, 1804, 1805, 1806, 1808–1811, 1815; 49 CFR 1.45 and 1.53 and App. A of 49 CFR part 1.

2. In § 107.601, the last sentence in paragraph (e) would be revised to read as follows:

**§ 107.601 Applicability.**

* * * * *

(e) * * * For applicability of this subpart, the term "shipment" means the offering or loading of a hazardous material at one loading facility using one transport vehicle, or the transport of that transport vehicle.

**§ 107.606 [Amended]**

3. In § 107.606, in paragraph (f), at the beginning of the first sentence, the wording "Until July 1, 1994," would be revised to read "Until July 1, 1996,".

4. In § 107.608, paragraph (a) would be revised to read as follows:

**§ 107.608 General registration requirements.**

(a) Except as provided in § 107.616(d), each person subject to this subpart must submit a complete and accurate registration statement on DOT Form F 5800.2 not later than June 30 for each registration year, or in time to comply with paragraph (b) of this section, whichever is later.

* * * * *

5. Section 107.620 would be amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

**§ 107.620 Recordkeeping requirements.**

* * * * *

(c) In addition to the requirements of paragraph (a) of this section, each person who transports by vessel a hazardous material subject to the requirements of this subpart must carry on board the vessel a copy of its current Certificate of Registration or another document bearing the current registration number identified as the "U.S. DOT Hazmat Reg. No.".

* * * * *

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

6. The authority citation for part 171 would continue to read as follows:

**Authority:** 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808, and 1818; 49 CFR part 1.

7. In § 171.2, a new paragraph (h) would be added to read as follows:

**§ 171.2 General requirements.**

* * * * *

(h) No person subject to the requirements of subpart G of part 107 of this chapter may offer for transportation a hazardous material subject to the requirements of subpart G of part 107 of this chapter to a transporter unless the transporter provides the offeror with the transporter's current registration number or a copy of the transporter's current Certificate of Registration. A transporter may not accept for transportation a hazardous material subject to the requirements of subpart G of part 107 of this chapter unless the offeror (if subject to the requirements of subpart G of part 107 of this chapter) provides the transporter with the offeror's current registration number or a copy of the offeror's current Certificate of Registration.

Issued in Washington, DC, on March 29, 1994, under the authority delegated in 49 CFR part 106, appendix A.

**Alan I. Roberts,**

*Associate Administrator for Hazardous Materials Safety.*

[FR Doc. 94–7816 Filed 3–31–94; 8:45 am]

BILLING CODE 4910–60–P

federal register

Friday
April 1, 1994

Part VI

# The President

Presidential Determination No. 94–19—Authorization To Make an Advance Payment for the Purchase of Highly Enriched Uranium from Russia

Federal Register
Vol. 59, No. 63
Friday, April 1, 1994

# Presidential Documents

Title 3—

The President

**Presidential Determination No. 94–19 of March 25, 1994**

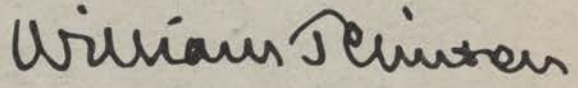
## Authorization To Make an Advance Payment for the Purchase of Highly Enriched Uranium from Russia

**Memorandum for the Secretary of the Treasury [and] the Chair of the Board of Directors of the United States Enrichment Corporation**

On February 18, 1993, the Government of the United States and the Government of the Russian Federation entered into an agreement to arrange the safe and prompt disposition for peaceful purposes of highly enriched uranium extracted from nuclear weapons as a result of the reduction of nuclear weapons in accordance with existing agreements in the area of arms control and disarmament. On January 14, 1994, the United States Enrichment Corporation, as Executive Agent of the United States, entered into the initial implementing contract pursuant to the February 18, 1993, agreement for the purchase of low-enriched uranium derived from highly enriched uranium extracted from nuclear weapons.

Pursuant to the authority vested in me by the Constitution and section 3324(b)(2) of title 31 of the United States Code, and having decided that an advance of public money is necessary to carry out both the duties of the disbursing official promptly and faithfully and the obligation of the United States Government pursuant to the initial implementing contract executed on January 14, 1994, I authorize an advance of public money to be made to the disbursing official for the purpose of providing payment to the Government of the Russian Federation or its designated agent, pursuant to the terms and conditions of the initial implementing contract.

The Secretary of the Treasury is authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
*Washington, March 25, 1994.*

[FR Doc. 94–8067
Filed 3–31–94; 10:21 am]
Billing code 4810–25–M

# Reader Aids

Federal Register

Vol. 59, No. 63

Friday, April 1, 1994

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## FEDERAL REGISTER PAGES AND DATES, APRIL



## CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

**Last List March 30, 1994**

## CFR ISSUANCES 1994
## January 1994 Editions and Projected April, 1994 Editions

This list sets out the CFR issuances for the January 1994 editions and projects the publication plans for the **April, 1994** quarter. A projected schedule that will include the **July, 1994** quarter will appear in the first **Federal Register** issue of July.

**For pricing information on available 1993–1994 volumes consult the CFR checklist which appears every Monday in the Federal Register.**

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

### Titles revised as of January 1, 1994 editions:

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**3 (Compilation)**

**4**

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1–699
700–1199
1200–End

**6 [Reserved]**

**7 Parts:**
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300–399
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1000–1059
1060–1119
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1200–1499
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**8**

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1 (§§ 1.0-1–1.60)
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1 (§§ 1.401–1.440)
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1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.907)
1 (§§ 1.908–1.1000)
1 (§§ 1.1001–1.1400)
1 (§ 1.1401–End)
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600–End

**27 Parts:**
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200–End

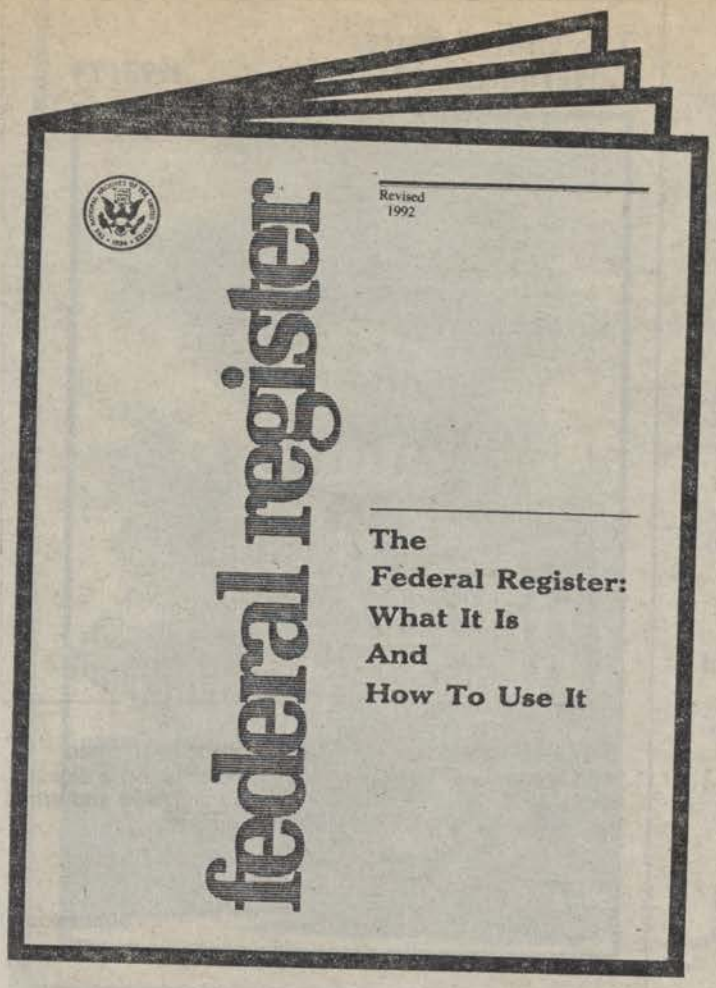
## TABLE OF EFFECTIVE DATES AND TIME PERIODS—APRIL 1994

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

| DATE OF FR PUBLICATION | 15 DAYS AFTER PUBLICATION | 30 DAYS AFTER PUBLICATION | 45 DAYS AFTER PUBLICATION | 60 DAYS AFTER PUBLICATION | 90 DAYS AFTER PUBLICATION |
|---|---|---|---|---|---|
| April 1 | April 18 | May 2 | May 16 | May 31 | June 30 |
| April 4 | April 19 | May 4 | May 19 | June 3 | July 5 |
| April 5 | April 20 | May 5 | May 20 | June 6 | July 5 |
| April 6 | April 21 | May 6 | May 23 | June 6 | July 5 |
| April 7 | April 22 | May 9 | May 23 | June 6 | July 6 |
| April 8 | April 25 | May 9 | May 23 | June 7 | July 7 |
| April 11 | April 26 | May 11 | May 26 | June 10 | July 11 |
| April 12 | April 27 | May 12 | May 27 | June 13 | July 11 |
| April 13 | April 28 | May 13 | May 31 | June 13 | July 12 |
| April 14 | April 29 | May 16 | May 31 | June 13 | July 13 |
| April 15 | May 2 | May 16 | May 31 | June 14 | July 14 |
| April 18 | May 3 | May 18 | June 2 | June 17 | July 18 |
| April 19 | May 4 | May 19 | June 3 | June 20 | July 18 |
| April 20 | May 5 | May 20 | June 6 | June 20 | July 19 |
| April 21 | May 6 | May 23 | June 6 | June 20 | July 20 |
| April 22 | May 9 | May 23 | June 6 | June 21 | July 21 |
| April 25 | May 10 | May 25 | June 9 | June 24 | July 25 |
| April 26 | May 11 | May 26 | June 10 | June 27 | July 25 |
| April 27 | May 12 | May 27 | June 13 | June 27 | July 26 |
| April 28 | May 13 | May 31 | June 13 | June 27 | July 27 |
| April 29 | May 16 | May 31 | June 13 | June 28 | July 28 |

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